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PROPOSAL

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2014/0201 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directives 2008/98/EC on waste, 94/62/EC on packaging and packaging waste, 1999/31/EC on the landfill of waste, 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment

(Text with EEA relevance)

{SWD(2014) 207 final}
{SWD(2014) 208 final}
{SWD(2014) 209 final}
{SWD(2014) 210 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1 General Context

The Union's economy currently loses a significant amount of potential secondary raw materials which are found in waste streams. In 2011, total waste production in the EU amounted to approximately 2.5 billion tons. By way of example, only a limited share (40%) of the municipal waste generated in the Union was recycled, with the rest being landfilled (37%) or incinerated (23%) of which around 500 million tons could have been otherwise recycled or reused. The Union thus misses out on significant opportunities to improve resource efficiency and create a more circular economy leading to economic growth and jobs which in turn would reduce greenhouse gas emissions and its dependency on imported raw materials.

The Union also faces an implementation gap amongst its Member States. In 2011, while six Member States landfilled less than 3% of their municipal waste, 18 lost resources by landfilling over 50%, with some exceeding 90% of landfilling. This shows large divergences in terms of waste management performances which need to be redressed as a matter of urgency.

1.2 Grounds for and objectives of the proposal

Recent trends suggest that further progress on resource efficiency is possible and that it can bring major economic and social benefits. Turning waste into a resource is an essential part of increasing resource efficiency and closing the loop in a circular economy.

European legislation and particularly the setting of legally binding targets has been a key driver to improve waste management practices, stimulate innovation in recycling, limit the use of landfilling, and create incentives to change consumer behaviour. Taking waste policy further can bring significant benefits coming from sustainable growth and job creation at relatively low cost, while contributing to a better environment.

This proposal responds to the legal obligation to review the waste management targets of three Directives: Directive 2008/98/EC on waste[1], Directive 1999/31/EC on the landfill of waste[2], and Directive 94/62/EC on packaging and packaging waste[3]. In doing so, it addresses the above-mentioned situation in line with the objectives of the Resource Efficiency Roadmap[4] and the 7th Environment Action Programme[5], including full implementation of the waste hierarchy[6] in all Member States, decline in absolute and per capita waste generation and

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1 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).

2 Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.07.1999, p. 1).

3 Directive 96/42/EC of European Parliament and Council of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

4 COM(2011) 571.

5 Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet' (OJ L 354, 28.12.2013, p. 171).

6 The waste hierarchy gives the preference to prevention first followed by reuse, recycling before energy recovery and disposal which includes landfilling and incineration without energy recovery.

the development of a comprehensive strategy to combat unnecessary food waste, ensuring high quality recycling and the use of recycled waste as a major, reliable source of raw material for the Union, limiting energy recovery to non-recyclable materials, and limiting landfilling to non-recoverable waste. It also contributes to the implementation of the EU Raw Materials Initiative[7].

In addition, the proposal includes elements of simplification of the reporting requirements included in Directives 94/62/EC on packaging and packaging waste, 2000/53/EC on end-of-life vehicles[8], and 2006/66/EC on batteries and accumulators and waste batteries and accumulators[9].

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

2.1 Studies

Three main studies carried out over the last two years underpinned the impact assessment and the legal proposal[10] by assessing the technological, socio-economic and cost-benefit related to the implementation and further development of EU waste legislation.

2.2 Internal consultation

An Impact Assessment Steering Group was created on 16 April 2012. The following DG's were invited to participate in 5 meetings of the Impact Assessment Steering Group: SG, ECFIN, ENTR, CLIMA, JRC, and ESTAT. The Impact Assessment Steering Group followed the preparation of the Impact Assessment.

2.3 External consultation

An indicative list of issues to be tackled was developed by the Commission and the first interviews with key stakeholders started in February 2013. An online public consultation was launched in June 2013, closing in September 2013 in line with the minimum standards for consultation.

670 responses were submitted, reflecting high public concern about the waste management situation in the EU and high expectations for EU action in this area.

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7 COM(2013) 442.

8 Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles (OJ L 269, 21.10.2000, p. 34–43).

9 Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (OJ L 266, 26.09.2006, p. 1–14).

10 http://www.wastetargetsreview.eu/

http://www.eea.europa.eu/publications/waste-opportunities-84-past-and

http://www.wastemodel.eu/

2.4 Impact assessment

An impact assessment report and an executive summary are published together with the present proposal. The impact assessment evaluates the main environmental, social and economic impacts of various policy options to improve the waste management records in the EU. Various levels of ambition are assessed and compared to a "baseline scenario" in order to identify the most appropriate instruments and targets while minimizing costs and maximizing benefits.

The Commission's Impact Assessment Board delivered a positive opinion on the impact assessment on 8 April 2014, while making a number of recommendations to fine-tune the report. The Board requested to further clarify the problem definition and the need for new mid-term targets, strengthen the arguments in favour of a landfill ban from a subsidiarity and proportionality point of view and of uniform targets for all Member States, and explain in more detail how the varying performances of Member States are taken into account in the proposal.

Further consideration of the policy options set out in the impact assessment has led to the conclusion that the combination of Options 2 and 3.7 will bring the following benefits:

– Administrative burden reduction in particular for small establishments or undertakings, simplification and better implementation including by keeping targets 'fit for purpose';

– Job creation – more than 180.000 direct jobs could be created by 2030, most of them impossible to delocalize outside the EU;

– GHG emission reduction – around 443 millions of tons of GHG could be avoided between 2014 and 2030;

– Positive effects on the competitiveness of the EU waste management and recycling sectors as well as on the EU the manufacturing sector (better EPR, reduced risks associated with raw material access);

– Reinjection into the EU economy of secondary raw materials which in turn will reduce the dependency of the EU on raw materials imports

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1 Summary of the proposed action

The main amendments of the proposal are:

– Alignment of definitions and removal of obsolete legal requirements;

– Simplification and streamlining of reporting obligations;

– Introduction of an Early Warning System for monitoring compliance with the recycling targets;

– Introduction of minimum operating conditions for Extended Producer Responsibility;

– Increase of the preparing for re-use and recycling target for municipal waste to 70% by 2030;

– Increase of the packaging waste re-use and recycling targets;

– Restrict the landfilling of non-residual municipal waste by 2030;

– Alignment to Articles 290 and 291 TFEU on delegated and implementing acts.

The above would set the necessary legal framework for Member States' policies and legislation to develop in the field of waste prevention and recycling.

3.2 Legal basis and right to act

This Directive amends six Directives addressing the management of different wastes. Four of these Directives (Directive 2008/98/EC, Directive 1999/31/EC, Directive 2000/53/EC and Directive 2012/19/EU) were adopted on the basis of Article 192(1) TFUE, whilst Directive 2006/66/EC was adopted on the basis of both Article 192(2) and Article 114 TFUE and Directive 94/62/EC on the basis of Article 114 TFUE. Therefore, this Directive is based on Article 192(1) TFUE and on Article 114 TFUE in relation to Article 2.

Article 11(2) of Directive 2008/98/EC sets down a 50% target for preparing for re-use and recycling of household and similar waste and a 70% target for preparing for re-use, recycling and other material recovery of non-hazardous construction and demolition waste by 2020. Pursuant to Article 11(4), by 31 December 2014 at the latest, the Commission shall examine those targets with a view to, if necessary, reinforcing them and considering the setting of targets for other waste streams, taking into account the relevant environmental, economic and social impacts of setting the targets. According to Article 9(c), the Commission should set, by the end of 2014, waste prevention and decoupling objectives for 2020, based on best available practices including, if necessary, a revision of the indicators referred to in Article 29(4). Finally, pursuant to Article 37(4), in the first report that intervenes by 12 December 2014, the Commission shall assess a number of measures including producer responsibility schemes for specific waste streams, targets, indicators and measures related to recycling, as well as material and energy recovery operations that may contribute to fulfilling the objectives set in Articles 1 and 4 more effectively.

Article 5(2) of Directive 1999/31/EC sets down three targets for the diversion of biodegradable municipal waste from landfills and bans the landfilling of certain waste streams. The last target for the diversion of biodegradable municipal waste from landfills has to be met by the Member States by 16 July 2016. Pursuant to Article 5(2), it shall be re-examined by 16 July 2014 with a view to confirming or amending it in order to ensure a high level of environmental protection and in light of the practical experience gained by Member States in the pursuance of the two previous targets.

Article 6(1) of Directive 94/62/EC sets down targets for the recovery and recycling of packaging waste which, pursuant to Article 6(5), shall be fixed every five years based on the practical experience gained in Member States and the findings of scientific research and evaluation techniques such as life-cycle assessments and cost-benefit analysis.

3.3 Subsidiarity and proportionality principle

The proposal is in conformity with the subsidiarity and proportionality principle set out in Article 5 of the Treaty on the European Union. It is limited to amending the abovementioned Directives by providing a framework establishing shared objectives, while leaving Member States free to decide about precise implementation methods.

3.4 Explanatory documents

The Commission considers that explanatory documents are necessary in order to improve the quality of information on the transposition of the Directive for the following reasons.

Waste legislation is often transposed in a highly decentralised manner in the Member States, including on the regional or local level and in multiple legal acts, depending on the administrative structure of a Member State. As a result, in transposing the amended Directives Member States may have to amend a wide variety of legislative acts at national, regional and local levels.

This Directive amends six different waste Directives and affects an important number of legally binding obligations, including a comprehensive amendment of the targets contained in the Waste Framework Directive, the Landfill Directive, and the Packaging Directive and a simplification of the WEEE, ELV and Batteries Directives. This is a complex review of waste legislation that will potentially affect a number of pieces of national legislation.

The revised targets for waste management contained in the amended Directives are inter-connected, and as such should be carefully transposed into national legislation and later on incorporated into the national waste management systems.

The provisions of the amended Directives will affect a wide range of private and public stakeholders in the Member States and will have an important impact on planned investments and future infrastructures in the waste management systems. The complete and correct transposition of the amended Directives is essential to guarantee that their objectives (i.e. protecting human health and the environment, increased resource efficiency, and ensuring the functioning of the internal market and avoiding obstacles to trade and restriction of competition within the EU) are achieved.

The above factors are likely to increase the risks of incorrect transposition and implementation of the Directive, and complicate the Commission's task of monitoring the application of EU law. Clear information with respect to the transposition of the revised waste Directives is instrumental in ensuring the conformity of national legislation with their provisions.

The requirement to provide explanatory documents may create an additional administrative burden on some Member States. However, explanatory documents are necessary to allow effective verification of complete and correct transposition, which is essential for the reasons mentioned above, and there are no less burdensome measures to allow efficient verification. Moreover, the explanatory documents can contribute significantly to reducing the administrative burden of compliance monitoring by the Commission; without them, considerable resources and numerous contacts with national authorities would be required to track the methods of transposition in all Member States. Hence, the possible additional administrative burden of providing explanatory documents is proportionate to the aim

pursued, namely to ensure effective transposition and fully achieve the objectives of the revised Directives.

In view of the above it is appropriate to ask Member States to accompany the notification of their transposition measures with one or more documents explaining the relationship between the provisions of this Directive amending the waste legislation and the corresponding parts of national transposition instruments.

3.5 Delegated and implementing powers of the Commission

Paragraphs 2, 3, 5, 7, 8, 13, 14, 16, 18, 20, 21 of Article 1, paragraphs 2, 5, 6, 8, 9 of Article 2, paragraphs 6 and 7 of Article 3, the amendment proposed in Article 4, and paragraph 1 of Article 6 of this Proposal identify the delegated and implementing powers of the Commission in Directives 2008/98/EC, 94/62/EC and 1999/31/EC, respectively, and establish the corresponding procedures for adoption of these acts.

4. BUDGETARY IMPLICATION

The proposal will not have an impact on the European Union budget and is therefore not accompanied by the financial statement provided for under Article 31 of the Financial Regulation (Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No1605/2002).

2014/0201 (COD)

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amending Directives 2008/98/EC on waste, 94/62/EC on packaging and packaging waste, 1999/31/EC on the landfill of waste, 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof and, in relation to Article 2 of this Directive, Article 114 thereof, Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee[11],

Having regard to the opinion of the Committee of the Regions[12],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Waste management in the Union should be improved, with the view to protecting, preserving and improving the quality of the environment, protecting human health, and ensuring prudent and rational utilisation of natural resources.

(2) The legal basis is therefore Article 192(2) of the Treaty for the amendments of the Directives 1999/31/EC, 2000/53/EC, 2006/66/EC, 2008/98/EC and 2012/19/EU. Directive 94/62/EC however, being a measure of ensuring the functioning of the internal market, should be amended on the basis of Article 114 of the Treaty. For reasons of simplification and procedural economy it is appropriate to amend all those Directives by a single amending act..

(3) The Commission has reviewed the targets laid down in Article 11(2) of Directive 2008/98/EC of the European Parliament and of the Council[13], Article 5(2) of Council Directive 1999/31/EC[14] and Article 6(1) of Directive 94/62/EC of the European

[11] OJ C , , p. .
[12] OJ C , , p. .
[13] 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).
[14] Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.07.1999, p. 1).

Parliament and of the Council[15]. In its review, the Commission found that it was appropriate to amend these targets to make them better reflect the needs of the circular economy by increasing preparing for re-use and recycling of municipal and packaging waste and eliminating landfilling of waste destined for landfills for non-hazardous waste.

(4) Many Member States have not yet completely developed the necessary waste management infrastructure and are planning investments now. It is therefore essential to set clear policy objectives in order to avoid locking secondary raw materials at the bottom of the waste hierarchy.

(5) Municipal waste constitutes approximately between 7 and 10% of the total waste generated in the Union; however, this waste stream is amongst the most complex ones to manage, and the way it is managed gives a good indication of the quality of the overall waste management system in a country. The challenges of municipal waste management result from its highly complex and mixed composition, direct proximity of the generated waste to citizens, and a very high public visibility. As a result, its management involves a need for a highly complex waste management system including an efficient collection scheme, a need to actively engage citizens and businesses, a need for infrastructure adjusted to the specific waste composition, and an elaborate financing system. Countries which have developed efficient municipal waste management systems generally score better in overall waste management.

(6) Packaging waste and biodegradable municipal waste account for a large proportion of municipal waste and of household and similar waste. It is therefore necessary to examine the impacts of setting targets for the management of these waste streams at the same time.

(7) Industrial, commercial, and mining waste is extremely diversified in terms of composition and volume, and very different depending on the economic structure of a Member State, the structure of the industry or commerce sector that generates the waste, or the industrial or commercial density in a given geographical area. Hence, for most industrial and mining waste, an industry-oriented approach using Best Available Techniques (BAT) reference documents (BREF) to address the specific issues related to the management of a given type of waste is a suitable solution[16]. However, industrial and commercial packaging waste will continue being covered by the requirements of Directive 94/62/EC and Directive 2008/98/EC, including their respective improvements.

(8) Through a progressive increase of the existing targets on preparing for re-use and recycling of municipal waste and the elimination of recyclable waste from landfilling corresponding to a maximum of 25% landfilling by 2025, it should be ensured that

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15 Directive 96/42/EC of European Parliament and Council of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

16 Industrial and mining activities are covered by Best Available Techniques (BAT) reference documents (BREFs) drawn up under the Industrial Emissions Directive 2010/75/EU (OJ L 334, 17.12.2010, p. 17) and the Mining Waste Directive (2006/21/EC, OJ L 102, 11.04.2006, p. 15) that include information on the prevention of resource use and waste generation, re-use, recycling and recovery. The on-going revision of the BREFs and the adoption by the Commission of BAT Conclusions will strengthen the impact of these BREFs on industrial practices leading to further resource efficiency gains and increased waste recycling and recovery.

economically valuable waste materials are progressively and effectively recovered through proper waste management and in line with the waste hierarchy. That way it should be ensured that valuable materials found in waste are returned into the European economy, thus making progress in the implementation of the Raw Materials Initiative[17] and the creation of a circular economy.

(9) Clear environmental, economic and social benefits would be derived from further increasing the targets laid down in Directives 2008/98/EC, 94/62/EC and 1999/31/EC for re-use and recycling of municipal and packaging waste, starting with waste streams which can be easily recycled (e.g. plastics, metals, glass, paper, wood, bio-waste).

(10) Compliance with the obligation to set up separate collection systems for paper, metal, plastic and glass is essential to increase preparing for re-use and recycling rates for municipal waste in Member States. In addition, separate collection of bio-waste introduced by this proposal should contribute to preventing contamination of recyclable materials.

(11) With the combination of recycling targets and landfill restrictions contained in this proposal, the Union-wide targets for energy recovery and maximum recycling targets for packaging waste laid down in Directive 94/62/EC are no longer necessary and should therefore be deleted.

(12) It follows from the targets included in this proposal that Member States should support the use of recovered materials, such as recovered paper and wood, in line with the waste hierarchy, with the aim of securing the supply of raw materials and moving the Union closer to a "recycling society", and, whenever possible, should not support the landfilling or incineration of such materials. Member States should not support the incineration of waste that can be recycled in a technically and economically feasible way and under environmentally safe conditions. Recital 29 of Directive 2008/98/EC should be interpreted in this context.

(13) This proposal aims to set clear directions for the Union's waste management and in this way ensure investment security for the Member States and the industry. In developing their national waste management strategies and planning investments in waste management infrastructure, Member States should make a sound use of the European Structural and Investment Funds in line with the waste hierarchy by promoting preparing for re-use and recycling.

(14) The Commission has set down targets for the recycling of plastic packaging waste for 2025 taking into account what was technically feasible at the time of the revision of the Directive; the Commission may propose new levels of the targets for plastics for 2030 based on a review of progress made by Member States towards reaching those targets, taking into account the evolution of the types of plastics placed on the market and the development of new recycling technologies.

(15) Separate collection and recycling of ferrous metals and aluminium would have significant economic and environmental benefits since more aluminium would then be captured. The re-use and recycling target for metal packaging should therefore be split into separate targets for those two types of waste.

[17] COM(2013) 442.

(16) Large differences exist between Member States in waste management, particularly as regards municipal waste. In order to ensure better, timelier, and more uniform implementation of the waste legislation and anticipate implementation weaknesses, an early warning system should be established to detect shortcomings and allow taking action ahead of the deadlines for meeting the targets.

(17) Directive 2008/98/EC introduces basic definitions regarding waste management. In order to ensure greater coherence in waste legislation, the definitions in Directive 94/62/EC and 1999/31/EC should be aligned to those of Directive 2008/98/EC.

(18) Definitions of municipal waste, food waste, backfilling should be included in Directive 2008/98/EC and the definition of residual waste in Directive 1999/31/EC in order to clarify the scope of these concepts.

(19) Statistical data reported by Member States are essential for the Commission to assess compliance with waste legislation. Introducing a single entry point for all waste data, deleting obsolete reporting requirements and benchmarking national reporting methodologies, accompanied by third party verification of data quality, should improve the quality and reliability of statistics.

(20) The producers of goods and products should be responsible for the management of the resulting post-consumer waste. Extended Producer Responsibility schemes form an essential part of efficient waste management, but their effectiveness and performance differ significantly between Member States. Thus the setting of minimum operating requirements for extended producer responsibility aiming at internalising the end-of-life management costs according to high environmental standards and providing an incentive for producers to take into account environmental considerations along the products' life, from the design phase to their end-of-life is necessary in order to reduce their cost and boost performance, as well as to ensure a level-playing field and avoid obstacles to the functioning of the internal market.

(21) Proper management of hazardous waste still presents a problem in the Union, and data on its treatment are partly missing. It is therefore necessary to strengthen the record keeping and traceability mechanisms through the establishment of electronic registries for hazardous waste in the Member States. Electronic data collection should be extended to other types of waste in order to simplify record-keeping for businesses and administrations and improve the monitoring of waste flows in the Union.

(22) In order to ensure security of supply of critical raw materials and in line with the Raw Materials Initiative and the objectives and targets of the European Innovation Partnership on Raw Materials[18], Member States should take measures to achieve the best possible management of waste containing significant amounts of critical raw materials[19] in line with the waste hierarchy, taking economic and technological feasibility and environmental benefits into account. The measures contained in this Directive, e.g. the recycling targets for municipal waste and the ban on the disposal of metals, including metals present in discarded products, in landfills for non-hazardous waste will support the measures taken at national level.

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[18] http://ec.europa.eu/eip/raw-materials/en/content/about-european-innovation-partnership-eip-raw-materials

[19] COM(2014) 297.

(23) To further support effective implementation of the Raw Materials Initiative, Member States should include in their waste management plans nationally appropriate measures regarding collection and recovery of waste containing significant amounts of critical raw materials.

(24) Having regard to the negative effects of food wastage on the environment and its negative effect, a framework should be established for Member States to collect and report levels of food waste across all sectors in a comparable way, and request developing national food waste prevention plans aimed at meeting an aspirational objective to reduce food waste by 30 % by 2025.

(25) In defining national food waste prevention programmes, Member States should set priorities based on the waste management hierarchy: prevention, preparing for re-use, recycling, recovery and disposal. In the case of food waste, it should be carefully assessed whether and for which categories of food waste, donation as well as the possible use of former foodstuffs in animal feed should be given priority over composting, creation of renewable energy and landfill. This assessment should take into account in particular economic circumstances, health, and quality standards, and always be in line with Union legislation regarding food and feed safety and animal health..

(26) Littering, especially of plastic, has a direct and detrimental impact on the environment and high clean-up costs are an unnecessary economic burden. The introduction of specific measures in waste management plans, financial support from producers within the extended producer responsibility schemes, and proper enforcement from the competent authorities should help eradicate this problem.

(27) Commission Communication on Regulatory Fitness and Performance ('REFIT'): Results and Next Steps[20] commits the Commission to evaluate, simplify or repeal Union legislative measures with a view to lightening the burden for business, encouraging growth and job creation. At the forefront of REFIT is the action to reduce regulatory burden on small establishments or undertakings. The consultation on the TOP10 most burdensome EU legislative acts for SMEs[21] has identified the waste legislation as an area where possible burden reduction was needed. In response to this call, and following a more detailed consultation of small establishments or undertakings in a dedicated workshop held on 16 September 2013, simplification of permitting and registration requirements for small establishments or undertakings should be introduced.

(28) Implementation reports prepared by Member States every three years have not proved to be an effective tool for verifying compliance and ensuring good implementation, and are generating unnecessary administrative burden. It is therefore appropriate to repeal provisions obliging member States to produce such reports and instead exclusively use for compliance monitoring purposes the statistical data which Member States report every year to the Commission, showing when the targets are likely to be met.

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20 Commission Communication of 2 October 2013 on Regulatory Fitness and Performance (REFIT): Results and Next Steps (COM(2013)685).

21 http://ec.europa.eu/enterprise/policies/sme/public-consultation-new/index_en.htm.

(29) It is necessary to continue reporting on certain aspects of the implementation of Directive 2000/53/EC of the European Parliament and of the Council[22]. In order to be able to better monitor the implementation of that Directive, this reporting should be done on an annual basis.

(30) Reliable reporting of statistical data concerning waste management is paramount to efficient implementation and ensuring a level playing field between Member States. Therefore, when preparing the reports on compliance with the targets set out in waste legislation, Member States shall use the most recent methodology developed by the Commission and the national statistical offices of the Member States.

(31) In order to supplement or amend Directive 94/62/EC, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of Articles 3(1), 11(3), 19(2) and 20(1). It is particularly important that the Commission should carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.

(32) In order to supplement or amend Directive 2008/98/EC, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of Articles 5(2), 6(2), 7(1), 27(1), 27(4), 38(1), 38(2) and 38(3). It is particularly important that the Commission should carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.

(33) In order to supplement or amend Directive 1999/31/EC, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of Article 16. It is particularly important that the Commission should carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council. Any amendments to the Annexes should only be made in line with the principles laid down in this Directive as expressed in the Annexes. To this end, as regards Annex II, the Commission should take into account the general principles and general procedures for testing and acceptance criteria as set out in Annex II, specific criteria and/or test methods and associated limit values should be set for each class of landfill, including if necessary specific types of landfill within each class, including underground storage. Proposals for the standardisation of control, sampling and analysis methods in relation to the Annexes should be considered for adoption by the Commission where appropriate within two years after the entry into force of this Directive

(34) In order to ensure uniform conditions for the implementation of Directive 94/62/EC, implementing powers should be conferred on the Commission in respect of Articles

[22] Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles (OJ L 269, 21.10.2000, p. 34).

12(3b) and 19(1). Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[23].

(35) In order to ensure uniform conditions for the implementation of Directive 1999/31/EC, implementing powers should be conferred on the Commission in respect of Articles 3(3), 5(2), 5(2a), 5(2b), Annex I, paragraph 3.5 and Annex II, paragraph 5. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[24].

(36) In order to ensure uniform conditions for the implementation of Directive 2008/98/EC, implementing powers should be conferred on the Commission in respect of Articles 9(3), 11(3), 24(2), 29(4), 33(2), 35(4), 37(4) and 38(4). Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[25].

(37) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

(38) Since the objectives of this Directive, namely to improve waste management in the Union, and thereby contributing to the protection, preservation and improvement of the quality of the environment and to the prudent and rational utilisation of natural resources across the Union, cannot be sufficiently achieved by the Member States, but can, by reason of the scale effects of the measures, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendment of Directive 2008/98/EC

Directive 2008/98/EC is hereby amended as follows:

(1) Article 3 is amended as follows:

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[23] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28/02/2011, p. 13).

[24] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28/02/2011, p. 13).

[25] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28/02/2011, p. 13).

(a) the following point (1a) is inserted:

'(1a). "municipal waste" means waste as set out in Annex VI;';

(b) the following points (4a) and (4b) are inserted:

'(4a). "food waste" means food (including inedible parts) lost from the food supply chain, not including food diverted to material uses such as bio-based products, animal feed, or sent for redistribution;

(4b). "construction and demolition waste" means waste corresponding to the waste categories in Chapter 17 of the Annex to Decision 2000/532/EC and any subsequent modifications, except for hazardous waste and naturally occurring material as defined in category 17 05 04;';

(c) the following point (15a) is inserted:

'15(a). "material recovery" means any recovery operation, excluding energy recovery and the reprocessing into materials which are to be used as fuel;';

(d) the following point (17a) is inserted:

'(17a). "backfilling" means any of the following types of recovery:

(i) recovery where waste is used in excavated areas such as underground mines or gravel pits for the purpose of slope reclamation, safety, or for engineering purposes in landscaping;

(ii) recovery where waste is used for the purpose of construction, stowage of mines and quarries, for re-cultivation, land reclamation, or landscaping and where the waste is substituting other non-waste materials which would otherwise have been used for that purpose;';

(e) the following point (20a) is added:

'(20a). "small establishments or undertakings" means establishments employing fewer than 250 persons and having an annual turnover not exceeding EUR 50 million or an annual balance sheet total not exceeding EUR 43 million;';

(2) Article 5 is amended as follows:

(a) in paragraph 1, the following point (e) is added:

'(e) any other conditions to be met for specific substances or objects laid down in accordance with paragraph 2.';

(b) paragraph 2 is replaced by the following:

'2. The Commission shall be empowered to adopt delegated acts in accordance with Article 38a determining the criteria to be met for specific substances or objects to be regarded as a by-product and not as waste referred to in point (1) of Article 3.';

(3) Article 6(2) is replaced by the following:

'2. The Commission shall be empowered to adopt delegated acts in accordance with Article 38a relating to the adoption of the criteria referred to in paragraph 1 and specifying the type of waste to which such criteria shall apply. End-of-waste specific criteria should be considered, among others, at least for aggregates, paper, glass, metal, tyres, textiles and bio-waste.';

(4) Article 6(3) is replaced by the following:

'3. Waste which has ceased to be waste in accordance with paragraphs 1 and 2 shall be deemed to be recycled for the purpose of the calculation of the targets set out in this Directive, Directives 94/62/EC, 2000/53/EC and 2006/66/EC and Directive 2012/19/EU of the European Parliament and of the Council* unless the materials are destined to be used as a fuel or, with the exception of aggregates derived from construction and demolition waste, for backfilling.';

* Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) (OJ L 197, 24.7.2012, p. 38).

(5) Article 7 is amended as follows:

(a) in paragraph 1, the first sentence is replaced by the following:

'1. The Commission shall be empowered to adopt delegated acts in accordance with Article 38a relating to the updating of the list of waste established by Decision 2000/532/EC.';

(b) paragraph 5 is deleted:

(6) Article 8 is amended as follows:

(a) in paragraph 1, first subparagraph is added as follows::

'1a. Extended producer responsibility means the producer's operational and/or financial responsibility for a product extended to the post-consumer state of a product's life cycle.';

(b) paragraph 2 is replaced by the following:

'2. Member States shall take appropriate measures to encourage the design of products in order to reduce their environmental impact and the generation of waste in the course of the production and subsequent use of products, without distorting the internal market.

Those measures shall include measures to encourage the development, production and marketing of products that are suitable for multiple use, that are technically durable and that are, after having become waste, suitable for re-use and recycling in order to facilitate proper implementation of the waste hierarchy. The measures shall take into account the full life cycle impacts of products.';

(c) paragraph 3 is replaced by the following:

'3. When developing and applying extended producer responsibility, Member States shall comply with the minimum requirements laid down in Annex VII.';

(7) Article 9 is replaced by the following:

"Article 9

Prevention of waste

'1. Member States shall take the appropriate waste prevention measures.

2. Every year, the European Environment Agency shall publish a report showing progress on prevention of waste generation for each Member State and the Union as a whole, including on decoupling of waste generation from economic growth.

3. Member States shall take measures to prevent food waste generation along the whole food supply chain. The measures shall endeavour to ensure that food waste in the manufacturing, retail/distribution, food service/hospitality and household sectors is reduced by at least 30% between 1 January 2017 and 31 December 2025.

By 31 December 2017, the Commission shall adopt implementing acts to establish uniform conditions for the monitoring of the implementation of food waste prevention measures taken by Member States. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 39(2).';

(8) Article 11 is amended as follows:

(a) paragraph 2 is amended as follows:

(i) point (a) is replaced by the following:'(a) by 1st January 2020 at the latest, recycling and preparing for re-use of municipal waste shall be increased to a minimum of 50% by weight;';

(ii) the following point (c) is added:

'(c) by 1st January 2030 at the latest, recycling and preparing for re-use of municipal waste shall be increased to a minimum of 70% by weight.';

(b) paragraphs 3, 4 and 5 are replaced by the following:

'3. The Commission may adopt implementing acts necessary to ensure a uniform implementation of the target laid down in paragraph 2(b) as regards backfilling. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 39(2).

4. For the purpose of calculating whether the targets laid down in paragraph2(a) and (c) have been achieved, the weight of the waste prepared for re-use and recycled shall be understood as the weight of the waste which was put into a final preparing for re-use or recycling process less the weight of any materials which were discarded in the course of that process due to presence of impurities and which need to be disposed of or undergo other recovery operations.

However, where the discarded materials constitute 2% or less of the weight of the waste put into that process, the weight of the waste prepared for re-use and recycled shall be understood as the weight of the waste which was put into a final preparing for re-use or recycling process.'

5. For the purpose of calculating whether the target laid down in paragraph 2(b) has been achieved, the weight of the waste prepared for re-use, recycled and materially recovered shall be understood as the weight of the waste put into a final preparing for re-use, recycling and other material recovery process less the weight of any materials which were discarded in the course of the final preparing for re-use, recycling or material recovery process due to presence of impurities which need to be disposed of or undergo other recovery operations.

However, where the discarded materials constitute 2% or less of the weight of the waste put into that process, the weight of the waste prepared for re-use and recycled shall be understood as the weight of the waste which was put into a final preparing for re-use or recycling process.'

(9) the following Article 11a is inserted:

'*Article 11a*

Early Warning System

1. The Commission shall, with the support of the European Environment Agency, publish the following reports:

(a) in 2017, a report on the achievement of the targets laid down in Article 11(2)(a) and (b);

(b) in 2022, a report on the achievement of the target laid down in Article 9(3);

(c) in 2027, a report on the achievement of the target laid down in Article 11(2)(c).

2. The reports referred to in paragraph 1 shall include the following:

(a) an estimation of the achievement of the targets by each Member State;

(b) an assessment of the expected time of the achievement of the targets by each Member States, and

(c) a list of Member States at risk of not meeting those targets within the respective time limits, together with appropriate recommendations.

Where necessary, the reports may address the implementation of additional requirements on top of those listed in paragraph 1.

3. Within six months from the date of the publication of the Commission report, Member States at risk of not meeting the targets shall submit to the Commission a compliance plan detailing the measures that they intend to take to achieve the targets. The compliance plan shall take into consideration the Commission recommendations

as specified in paragraph 2(c), the measures contained in Annex VIII or any other appropriate measures. It shall state the expected time of compliance.

4. When submitting a compliance plan in response to the report issued by the Commission pursuant to paragraph 1(a), Member States may request an extension of the time limit laid down in Article 11(2)(a) for a maximum of three years.

Unless the Commission raises objections to the compliance plan within five months of its receipt, the request for extension shall be deemed to be accepted.

If objections are raised, the Commission shall require the Member State concerned to submit a revised compliance plan within two months of receipt of the Commission comments.

The Commission shall assess the revised compliance plan within two months of its receipt and accept or reject the request for extension in writing. In the absence of the reaction from the Commission within that deadline, the request for extension shall be deemed to be accepted.';

(10) Article 17 is replaced by the following:

'*Article 17*

Control of hazardous waste

Member States shall take the necessary measures to ensure that the production, collection and transportation of hazardous waste, as well as its storage and treatment, are carried out in conditions providing protection for the environment and human health in order to comply with the principles laid down in Article 13, including action to ensure traceability from production to final destination and control of hazardous waste in order to meet the requirements of Articles 35 and 36.

For this purpose, Member States shall use the information made available to the competent authorities collected pursuant to Article 35.';

(11) in Article 22, the second paragraph is replaced by the following:

'In order to minimize contamination of waste materials, Member States shall ensure separate collection of bio-waste by 2025.

The Commission shall carry out an assessment on the management of bio-waste with a view to submitting a proposal if appropriate. The assessment shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment.';

(12) Article 24 is replaced by the following:

'*Article 24*

Exemptions from permit requirements

Member States may exempt establishments or undertakings from the requirement laid down in Article 23(1) for the following operations:

(a) collection of non-hazardous waste;

(b) transport of non-hazardous waste;

(c) disposal of their own non-hazardous waste at the place of production; or

(d) recovery of waste.';

(13) Article 26 is replaced by the following:

'*Article 26*

Registration

1. Where the following are not subject to permit requirements, Member States shall ensure that the competent authority keeps a register of:

(a) establishments or undertakings which collect or transport waste on a professional basis;

(b) dealers or brokers; and

(c) establishments or undertakings which are subject to exemptions from the permit requirements pursuant to Article 24.

Where possible, existing records held by the competent authority shall be used to obtain the relevant information for this registration process in order to reduce the administrative burden.

2. Member States may exempt from the requirement laid down in paragraph 1 small establishments or undertakings collecting or transporting very small quantities of non-hazardous waste.

The Commission may adopt the implementing acts necessary to establish how the very small quantity threshold is to be determined. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 39(2).';

(14) Article 27 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The Commission shall be empowered to adopt delegated acts in accordance with Article 38a setting out the technical minimum standards for treatment activities which require a permit pursuant to Article 23 where there is evidence that a benefit in terms of the protection of human health and the environment would be gained from such minimum standards.';

(b) paragraph 4 is replaced by the following:

'4. The Commission shall be empowered to adopt delegated acts in accordance with Article 38a setting out the minimum standards for activities that require registration pursuant to Article 26(1)(a) and (b) where there is evidence that a benefit in terms of the protection of human health and the environment or in avoiding disruption to the internal market would be gained from such minimum standards.';

(15) Article 28 is amended as follows:

(a) in paragraph 3, point (b) is amended as follows:

'(b) existing waste collection schemes and major disposal and recovery installations, including any special arrangements for waste oils, hazardous waste, waste containing significant amounts of critical raw materials, or waste streams addressed by specific Union legislation;';

(b) in paragraph 3, the following point (f) is added:

'(f) measures to combat littering.';

(c) paragraph 5 is replaced by the following:

'5. Waste management plans shall conform to the waste planning requirements laid down in Article 14 of Directive 94/62/EC and the requirements laid down in Article 11(2) of this Directive and in Article 5 of Directive 1999/31/EC.';

(16) Article 29 is amended as follows:

(a) in paragraph 2, the following sentence is added:

'Member States shall include in their programmes specific measures designed to reduce the generation of food waste as specified in Article 9(3) of this Directive.';

(b) paragraph 4 is replaced by the following:

'4. The Commission may adopt implementing acts to establish indicators for waste prevention measures. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 39(2).';

(17) Article 33(2) is replaced by the following:

'2. The Commission shall adopt implementing acts to establish the format for notifying the information on the adoption and substantial revisions of those plans and programmes. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 39(2).';

(18) Article 35 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The establishments or undertakings referred to in Article 23(1), the producers of waste and the establishments and undertakings which collect or transport waste on a professional basis, or act as dealers and brokers of waste, shall keep a chronological record of the quantity, nature and origin of the waste, and, where relevant, the

destination, frequency of collection, mode of transport and treatment method foreseen in respect of the waste, and shall make that information available to the competent authorities:

(a) for hazardous waste that information shall be made available every year by 31 December;

(b) for non-hazardous waste that information shall be made available on request by the competent authority.';

(b) the following paragraph 4 is added:

'4. Member States shall set up an electronic registry or coordinated registries to record data on hazardous waste and, where appropriate, other waste streams, covering the entire geographical territory of the Member State concerned. Member States shall use the data on waste reported by industrial operators in accordance with the European Pollutant Release and Transfer Register set up under Regulation (EC) N° 166/2006**.

The Commission may adopt implementing acts to establish minimum conditions for the operation of such registries. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 39(2).';

** Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC (OJ L 033, 4.2.2006, p.1).

(19) Article 36(1) is replaced by the following:

'1. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled management of waste, including littering.';

(20) Article 37 is replaced by the following:

'*Article 37*

Reporting

1. Member States shall annually transmit their data concerning the implementation of Articles 9(3), 11(2)(a), 11(2)(b) and 11(2)(c) electronically to the Commission by 31 December of the year following that for which the data are collected. The data shall be transmitted in the format established by the Commission in accordance with paragraph 6. The first report shall cover the period from 1 January 2019 to 31 December 2019.

2. Where waste is sent for preparation for re-use, recycling or other material recovery in another Member State, it may only be counted toward the targets of the Member State in which it has been collected for the purposes of the reports referred to in paragraph 1.

3. Waste exported from the Union for preparing for re-use or recycling shall only count towards the fulfilment of the targets laid down in Article 11 (2) if the exporter can prove in compliance with Regulations (EC) No 1013/2006 that the treatment outside the Union took place under conditions that are equivalent to the requirements of the relevant Union environmental legislation..

4. For the purpose of verifying compliance with Article 11(2)(b), the amount of waste used for backfilling operations shall be reported separately from the amount of waste prepared for re-use or recycled or used for other material recovery operations. The reprocessing of waste into materials that are to be used for backfilling operations shall be reported as backfilling.

5. The data reported by the Member State in accordance with this Article shall be accompanied by a quality check report and shall be verified by an independent third party.

6. The Commission may adopt implementing acts necessary establishing uniform conditions for the verification of compliance with the targets laid down in Articles 9(3), 11(2)(a), 11(2)(b) and 11(2)(c) laying down the reporting format for the data concerning those targets, and establishing minimum conditions for the third party verification. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 39(2).';

(21) Article 38 is amended as follows:

(a) in paragraph 1, the second subparagraph is replaced by the following:

'The Commission shall be empowered to adopt delegated acts in accordance with Article 38a to specify the application of the formula for incineration facilities referred to in point R1 of Annex II. Local climatic conditions may be taken into account, such as the severity of the cold and the need for heating insofar as they influence the amounts of energy that can technically be used or produced in the form of electricity, heating, cooling or processing steam. Local conditions of the outermost regions as recognised in the fourth subparagraph of Article 299(2) of the Treaty and of the territories mentioned in Article 25 of the 1985 Act of Accession may also be taken into account.';

(b) paragraph 2 is replaced by the following:

'2. The Commission shall be empowered to adopt delegated acts in accordance with Article 38a to amend Annexes I to V in the light of scientific and technical progress.';

(c) the following paragraphs 3 and 4 are added:

'3. The Commission shall be empowered to adopt delegated acts in accordance with Article 38a necessary to amend Annexes VII and VIII. 4. The Commission may adopt implementing acts for the revision of Annex VI. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 39(2).';

(22) the following Article 38a is inserted:

'*Article 38a*

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 5(2), 6(2), 7(1), 27(1), 27(4), 38(1), 38(2) and 38(3) shall be conferred on the Commission for an indeterminate period of time from [enter date of entry into force of this revision].

3. The delegation of power referred to in Articles 5(2), 6(2), 7(1), 27(1), 27(4), 38(1), 38(2) and 38(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 5(2), 6(2), 7(1), 27(1), 27(4), 38(1), 38(2) and 38(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.';

(23) Article 39 is replaced by the following:

'*Article 39*

Committee procedure

1. For the purposes of Articles 9(3), 11(3), 24(2), 29(4), 33(2), 35(4), 37(4) and 38(4), the Commission shall be assisted by the Committee for the adaptation to scientific and technical progress and implementation of Directive 2008/98/EC on waste. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and the Council ***.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

*** Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).';

(24) Annexes VI, VII and VIII are added in accordance with the Annex to this Directive.

Article 2

Amendment of Directive 94/62/EC

Directive 94/62/EC is amended as follows:

(1) Article 3 is amended as follows:

(a) in point (1), the following text is deleted:

> 'The Commission shall, as appropriate, examine and, where necessary, review the illustrative examples for the definition of packaging given in Annex I. As a priority, the following items shall be addressed: CD and video cases, flower pots, tubes and cylinders around which flexible material is wound, release paper of self-adhesive labels and wrapping paper. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(3).';

(b) point(2) is replaced by the following:

> '(2). 'packaging waste' shall mean any packaging or packaging material covered by the definition of waste laid down in Article 3(1) of Directive 2008/98/EC of the European Parliament and of the Council*;';
>
> * 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).

(c) points (3) to (10) are deleted;

(d) the following point (13) is added:

> '(13). the definitions of 'waste', 'municipal waste', 'hazardous waste', 'prevention', 'preparing for re-use', 're-use', 'recovery', 'recycling', 'disposal', 'waste management', 'waste producer' and 'waste holder' laid down in Article 3 of Directive 2008/98/EC shall apply.';

(2) The following Article 3a is added:

> '*Article 3a*
>
> **Amendment of Annex 1**
>
> 'The Commission shall be empowered to adopt delegated acts in accordance with Article 21a amending the illustrative examples listed in Annex I.';

(3) Article 6 is amended as follows:

(a) the title is replaced by "Preparing for re-use, recycling and recovery";

(b) in paragraph 1, the following points (f) to (k) are added:

'(f) by the end of 2020, a minimum of 60% by weight of all packaging waste will be prepared for re-use and recycled;

(g) by the end of 2020, the following minimum targets for preparing for re-use and recycling will be met regarding the following specific materials contained in packaging waste:

(i) 45% of plastic;

(ii) 50% of wood;

(iii) 70% of ferrous metal;

(iv) 70% of aluminium;

(v) 70% of glass;

(vi) 85% of paper and cardboard;

(h) by the end of 2025, a minimum of 70% by weight of all packaging waste will be prepared for re-use and recycled;

(i) by the end of 2025, the following minimum targets for preparing for re-use and recycling will be met regarding the following specific materials contained in packaging waste:

(i) 60% of plastic;

(ii) 65% of wood;

(iii) 80% of ferrous metal;

(iv) 80% of aluminium;

(v) 80% of glass;

(vi) 90% of paper and cardboard;

(j) by the end of 2030, a minimum of 80% by weight of all packaging waste will be prepared for re-use and recycled;

(k) by the end of 2030, the following minimum targets for preparing for re-use and recycling will be met regarding the following specific materials contained in packaging waste:

(i) 80% of wood;

(ii) 90% of ferrous metal;

(iii) 90% of aluminium;

(iv) 90% of glass.';

(c) the following paragraph 1a is inserted:

'1a. For the purpose of calculating whether the targets laid down in Article 6(1)(a) to (k) have been achieved, the weight of waste prepared for re-use and recycled shall be understood as the weight of the waste put into a final preparing for re-use or recycling process less the weight of any materials which were discarded in the course of that process due to presence which need to be disposed of or undergo other recovery operations.

However, where the discarded materials constitute 2% or less of the weight of the waste put into that process, the weight of the waste prepared for re-use and recycled shall be understood as the weight of the waste which was put into a final preparing for re-use or recycling process. ';

(d) the following paragraph 1b is inserted:

'1b. If packaging is composed of different materials, each material shall be separately taken into account for the purpose of calculation of the targets laid down in Article 6(1)(f) to (k).';

(e) paragraphs 3, 5, 8, and 9 are deleted;

(f) the following paragraph 12 is added:

'12. Member States shall take appropriate measures to encourage the design of packaging in order to reduce its environmental impact and the generation of waste in the course of the production and subsequent use, provided that such measures avoid distortions of the internal market and do not hinder compliance with this Directive by other Member States.

Those measures shall include measures to encourage the development, production and marketing of packaging that is suitable for multiple use, that is technically durable and that is, after having become waste, suitable for re-use and recycling in order to facilitate proper implementation of the waste hierarchy. The measures shall take into account the full life cycle impacts of packaging.';

(4) the following Article 6a is inserted:

'*Article 6a*

Early Warning System

1. The Commission shall, with the support of the European Environment Agency, publish the following reports:

(a) in 2017, a report on the achievement of the targets laid down in Article 6(1)(f) and (g);

(b) in 2022, a report on the achievement of the targets laid down in Article 6(1)(h) and (i);

(c) in 2027, a report on the achievement of the targets laid down in Article 6(1)(j) and (k);.

2. The reports referred to in paragraph 1 shall include the following:

(a) an estimation of the achievement of the targets by each Member State;

(b) an assessment of the expected time of the achievement of the targets by each Member State, and

(c) a list of Member States at risk of not meeting those targets within the respective time limits, together with appropriate recommendations.

Where necessary, the reports may address the implementation of additional requirements to those listed in paragraph 1.

3. Within six months from the date of the publication of the Commission report, Member States at risk of not meeting the targets shall submit to the Commission a compliance plan detailing the measures that they intend to take to achieve the targets. The compliance plan shall take into consideration the Commission recommendations as specified in paragraph 2(c), the measures contained in Annex VIII to Directive 2008/98/EC or any other appropriate measures. It shall state the expected time of compliance.';

(5) Article 11(3) is replaced by the following:

'3. The Commission shall be empowered to adopt delegated acts in accordance with Article 21a to determine the conditions under which the concentration levels referred to in paragraph 1 are not to apply to recycled materials and to product loops which are in a closed and controlled chain, as well as the types of packaging which are exempted from the requirement referred to in the third indent of paragraph 1.';

(6) Article 12 is amended as follows:

(a) the title is replaced by “Information systems and reporting”;

(b) paragraph 3 is deleted:

(c) the following paragraphs 3a to 3d are inserted:

'3a. Member States shall annually transmit their data concerning the implementation of Article 6(1)(a) to (k) electronically to the Commission by 31 December of the year following that for which the data are collected. The first report shall cover the period from 1 January [enter year of entry into force of this amending act + 1 year] to 31 December [enter year of entry into force of this amending act + 1 year].

3b. Where waste is sent for preparation for re-use, recycling or other material recovery in another Member State, it may only be counted toward the targets of the Member State in which it has been collected for the purposes of the reports referred to in paragraph 1.

3c. Packaging waste exported from the Union for preparation for re-use or recycling shall only count towards the fulfilment of the targets laid down in Article 6(1) (a) to (k) if the exporter can prove in compliance with Regulations (EC) No 1013/2006 that the treatment outside the Union took place under conditions that are equivalent to the requirements of the relevant Union environmental legislation.

3d. The Commission may adopt implementing acts establishing uniform conditions for the verification of compliance with the targets laid down in Article 6(1)(a) to (k) laying down the reporting format for the data concerning those targets and establishing uniform conditions for the third party verification. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 21(2).';

(d) paragraph 5 is deleted;

(7) Article 17 is deleted;

(8) Article 19 is replaced by the following:

'1. The Commission shall adopt implementing acts necessary for adapting the identification system referred to in Article 8(2) and Article 10, second paragraph, sixth indent, to scientific and technical progress. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 21(2).

2. The Commission shall adopt the implementing acts necessary for laying down the reporting formats referred to in Article 12(3d). Those implementing acts shall be adopted in accordance with the procedure referred to in Article 21(2).';

(9) Article 20 is replaced by the following:

'*Article 20*

Specific measures

The Commission shall be empowered to adopt delegated acts in accordance with Article 21a necessary to deal with any difficulties encountered in applying the provisions of this Directive, in particular, to inert packaging materials placed on the market in very small quantities (i.e. approximately 0.1 % by weight) in the Union, primary packaging for medical devices and pharmaceutical products, small packaging and luxury packaging.';

(10) Article 21 is replaced by the following:

'*Article 21*

Committee procedure

1. For the purposes of Articles 12(3b) and 19(1), the Commission shall be assisted by the Committee for the adaptation to scientific and technical progress and implementation of Directive 2008/98/EC on waste, established by Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council **.

2. When reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

** Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.02.2011, p. 13).';

(11) New Article 21a is added:

'*Article 21a*

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 1(1), 11(3), 19(2) and 20(1) shall be conferred on the Commission for an indeterminate period of time from [enter date of entry into force of this revision].

3. The delegation of power referred to in Articles 1(1), 11(3), 19(2) and 20(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 1(1), 11(3), 19(2) and 20(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.'.

Article 3

Amendment of Directive 1999/31/EC

Directive 1999/31/EC is amended as follows:

(1) Article 2 is amended as follows:

(a) point (a) is replaced by the following:

'(a) the definitions of 'waste', 'municipal waste', 'hazardous waste', 'recovery', 'recycling', 'disposal', 'waste producer' and 'waste holder' laid down in Article 3 of Directive 2008/98/EC of the European Parliament and of the Council* shall apply;

* 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).';

(b) the following point (aa) is inserted;

(aa) "residual waste" means waste resulting from a recovery, including recycling, operation which cannot be further recovered and as a result has to be disposed of;';

(c) points (b), (c) and (n) are deleted;

(d) point (d) is replaced by the following:

'(d) "non-hazardous waste" means any waste which is not covered by the definition of hazardous waste in Directive 2008/98/EC;';

(e) point (m) is replaced by the following:

'(m) "biodegradable waste" means wood, food and garden waste, and paper and cardboard and any other waste that can undergo anaerobic or aerobic decomposition;';

(2) Article 5 is amended as follows:

(a) the following paragraphs 2a, 2b and 2c are inserted:

'2a. Member States shall not accept the following waste in landfills for non-hazardous waste by 1 January 2025, recyclable waste including plastics, metals, glass, paper and cardboard, and other biodegradable waste.

2b. Member States shall not accept a quantity of waste in landfills for non-hazardous waste in a given year exceeding 25% of the total amount of municipal waste generated in the previous year, from 1 January 2025.

2c. Member States shall endeavour to accept only residual waste in landfills for non-hazardous waste by 1 January 2030, with the result that the total amount going to such landfills does not exceed 5% of the total amount of municipal waste generated in the previous year. The Commission shall review this objective by 2025 and, if appropriate, submit a legislative proposal for a legally-binding 2030 landfill reduction target.

2d. Member States shall not accept municipal waste to be deposited in landfills for inert waste.

The Commission shall assess the feasibility of introducing restrictions to the landfilling of non-residual waste in landfills for inert waste and, by 2018, issue a report presenting its conclusions and, if appropriate, submit a legislative proposal.';

(3) the following Article 5a is inserted:

'*Article 5a*

Early Warning System

1. The Commission shall, with the support of the European Environment Agency, publish the following reports:

(a) in 2022, a report on the achievement of the targets laid down in Articles 5(2a)(a) and 5(2b)(a);

(b) in 2027, a report on the achievement of the targets laid down in Article 5(2a)(b) and 5(2b)(b).

2. The reports referred to in paragraph 1 shall include the following:

(a) an estimation of the achievement of the targets by each Member State;

(b) an assessment of the expected time for the achievement of the targets by each Member State, and

(c) a list of Member States at risk of not meeting those targets within the respective time limits, together with appropriate recommendations.

Where necessary, the reports may address the implementation of additional requirements to those listed in paragraph 1.

3. Within six months from the date of the publication of the Commission report, Member States at risk of not meeting the targets shall submit to the Commission a compliance plan detailing the measures that a Member State intends to take to achieve the targets. The compliance plan shall take into consideration the Commission recommendations as specified in paragraph 2(c), the measures contained in Annex VIII to Directive 2008/98/EC or any other appropriate measures. It shall state the expected time of compliance.';

(4) in Article 11(2), the second sub-paragraph is deleted.

(5) Article 12(c) is amended as follows:

'(c). the quality control of the analytical operations of the control and monitoring procedures and/or of the analyses referred to in Article 11(1)(b) are carried out by competent laboratories accredited according to Regulation (EC) No 765/2008[26].';

(6) Article 15 is replaced by the following:

'*Article 15*

Reporting

1. Member States shall annually transmit their data concerning the implementation of the targets and obligations laid down in Article 5(2), (2a) and (2b) electronically to the Commission by 31 December of the year following that for which the data are collected. The data shall be transmitted in the format established by the Commission

[26] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products (OJ L 218, 13.8.2008, p. 30).

in accordance with paragraph 3. The first report shall cover the period from 1 January [enter year of entry into force of this amending act + 1 year] to 31 December [enter year of entry into force of this amending act + 1 year].

2. Member States shall report the data concerning the implementation of the targets laid down in Article 5(2) until 1 January 2025.

3. The Commission may adopt implementing acts establishing uniform conditions for the verification of compliance with the targets laid down in Article 5(2), (2a) and (2b) , laying down the reporting format for the data concerning those targets, and establishing minimum conditions for the third party verification. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 17(2) of this Directive.

4. The data reported by the Member State in accordance with paragraphs 1 and 2 shall be accompanied by a quality check report and shall be verified by an independent third party.

(7) Article 16 is replaced by the following:

'*Article 16*

Amendment of the Annexes

The Commission shall be empowered to adopt delegated acts in accordance with Article 17a for the amendments necessary for adapting the Annexes to scientific and technical progress.';

(8) Article 17 is replaced by the following:

'*Article 17*

Committee procedure

1. For the purposes of Articles 3(3), 5(2), 5(2a), 5(2b), Annex I, paragraph 3.5 and Annex II, paragraph 5, the Commission shall be assisted by the Committee for the adaptation to scientific and technical progress and implementation of Directive 2008/98/EC on waste, established by Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011of the European Parliament and of the Council **. When reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

2. When reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.';

** Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.02.2011, p. 13).

(9) Article 17a is added;

'*Article 17a*

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 16 shall be conferred on the Commission for an indeterminate period of time from [enter date of entry into force of this amending act].

3. The delegation of power referred to in Article 16 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 16 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.'.

Article 4

Amendment of Directive 2000/53/EC

In Article 9 of Directive 2000/53/EC the following paragraphs 1a to 1c are inserted:

'1a. Member States shall apply the detailed rules which can concern inter alia the establishment of formats adopted by the Commission in accordance with the third subparagraph of Article 7(2) – last sub paragraph - to report on the verification of compliance with the targets laid down in the first subparagraph of Article 7(2). The data shall be transmitted to the Commission by 31 December of the year following that for which the data are collected.

1b. The data reported by the Member States in accordance with this Article shall be accompanied by a quality check report and shall be verified by an independent third party.

1c. The Commission may adopt implementing acts to establish minimum conditions for the third party verification. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 11.';

Article 5

Amendment of Directive 2006/66/EC

Directive 2006/66/EC is amended as follows:

(1) Article 22 is deleted;

(2) Article 23 is amended as follows:

(a) paragraph 1 is replaced by the following:

> 'The Commission shall report on the implementation of this Directive and its impact on the environment and the functioning of the internal market by the end of 2016 at the latest.';

(b) in paragraph 2, the introductory phrase is replaced by the following:

> 'In its report, the Commission shall include an evaluation on the following aspects of this Directive:'.

Article 6

Amendment of Directive 2012/19/EU

Directive 2012/19/EU is amended as follows:

(1) Article 16 is amended as follows:

(a) paragraph 5 is replaced by the following:

> '5a. Member States shall annually transmit their data concerning the implementation of Article 16(4) electronically to the Commission by 31 December of the year following that for which the data are collected. The data shall be transmitted in the format established by the Commission in accordance with paragraph 5d. The first report shall cover the period from 1 January [enter year following that of entry into force of this amending act] to 31 December [enter year following that of entry into force of this amending act].
>
> 5c. The data reported by the Member State in accordance with paragraph 5a shall be accompanied by a quality check report and shall be verified by an independent third party.
>
> 5d. The Commission may adopt implementing acts to establish minimum conditions for the third party verification. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 21(2).';

(2) Article 21 is replaced by the following:

> '*Article 21*
>
> **Committee procedure**

1. For the purposes of Articles 7(5), 8(5), 11(3), 16(3), 16(6) and 23(4), the Commission shall be assisted by the Committee for the adaptation to scientific and technical progress and implementation of Directive 2008/98/EC on waste, established by Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

3. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.'.

Article 7

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [insert date twelve months after the entry into force of this Directive] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

   When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 8

Entry into force

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

Article 9

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*