

Position of European Bioplastics

PROPOSAL FOR REVISED RULES ON PACKAGING AND PACKAGING WASTE

European Bioplastics (EUBP), the association representing the interests of around 80 member companies from the entire bioplastics value chain, welcomes the Commission's proposal for a revised Regulation on Packaging and Packaging Waste (PPWR)¹.

At EUBP, we believe that our innovative materials can contribute to achieving the proposal's following objectives through the adoption of targeted measures that promote solutions based on biobased as well as compostable plastics:

- **carbon neutrality:** Biobased plastics produced from sustainably sourced biomass can and will, if promoted, contribute to achieving climate neutrality by 2050 by featuring an overall significantly lower carbon footprint and reducing the need for virgin fossil-based feedstock.
- **(organic) recycling targets:** Compostable plastic packaging has been proven² to increase the capture rate of food waste for organic recycling and, at the same time, reduce the contamination of biowaste streams. Compostable plastics should be enabled for all specific packaging applications linked to food and food waste.
- **innovation:** Innovations in packaging materials and applications need to be enabled by allowing innovative materials a longer derogation period from the requirements on recyclability and recycled content targets to scale up production and recycling volumes.

We appreciate that the Commission has recognized the **important role of compostable plastics in facilitating separate biowaste collection**, which will be mandatory across Europe by December 2023, and that it increases the volume and quality of the separately collected biowaste and diverts organic waste away from incineration and other waste streams. Furthermore, compostable plastics help to reduce the contamination of organic waste streams with conventional non-biodegradable plastics and, ultimately, reduce persistent microplastics in compost. If compostable

plastics do end up in mechanical recycling streams due to misthrows, the existing sorting technologies are perfectly capable of removing them.

By mandating several packaging applications to be industrially compostable, including tea bags, coffee capsules, fruit and vegetable stickers, and very lightweight plastic carrier bags, the Commission has taken a first step in the right direction. However, EUBP insists on the need to extend the scope of compostable applications. This is because the proposed restrictions do not reflect consumer reality, stifle innovation, and create uncertainties for this sector.

- *EUBP urges EU legislators to allow for other compostable plastic packaging, that complies with the criteria set out in Annex III of the proposed PPWR and that is certified according to the harmonized EU standard EN 13432, to be placed on the market and to enter organic recycling streams.*
- *Where appropriate waste collection schemes and waste treatment infrastructures are available, Member States should have flexibility in deciding whether to mandate the use of compostable plastics for additional specific plastic packaging applications, in particular those linked to food and food waste.*

Our members are particularly concerned and alarmed by the lack of the Commission's proposal to recognize the **significant contribution of the bioeconomy and its products, including biobased plastics, towards making the packaging sector more circular and sustainable**. We argue that recyclability and reusability alone are not enough to put the packaging sector on track for climate neutrality by 2050 and to reduce the EU's dependency on fossil resources. EUBP urges the EU institutions to accelerate the uptake of biobased content equivalent to recycled content in packaging. Despite the increase in recycling and reuse, virgin raw materials will be needed, especially when strict requirements on food safety and health must be met. Biobased plastics

¹ European Commission (November 2022) proposal for a revised Packaging and Packaging Waste Regulation, https://environment.ec.europa.eu/publications/proposal-packaging-and-packaging-waste_en

² Italian compost association CIC, www.compost.it, and Zero Waste Europe (2020) "Bio-waste generation in the EU: Current capture levels and future potential." https://zerowasteurope.eu/wp-content/uploads/2020/07/2020_07_06_bic_zwe_report_bio_waste.pdf

help to reduce the environmental impact of plastics and packaging by featuring an overall significantly lower carbon footprint. Biobased plastics can be recycled in existing recycling systems with the environmental advantage to make a considerable contribution to increased resource efficiency through a closed resource cycle and use cascades.

- *EUBP calls for biobased content to count as equivalent towards the recycled content targets set out in the PPWR proposal. Both bio-based and recycled content help to reduce the environmental impact of packaging by significantly reducing GHG emissions and should therefore be promoted in the same manner.*
- *Biobased plastics offer a sustainable and safe alternative for packaging applications where reuse or recycling are not an option, especially when strict requirements on food safety and consumer health must be met.*
- *Accordingly, EPR fees should promote the use of biobased content in packaging to help secure feedstock availability and decouple economic growth from the depletion of fossil resources.*

We consider it vital for the EU to **enable and champion innovation to ensure that the packaging sector is fit for the future and moving towards a sustainable and circular economy model.** The Commission's legislative proposal, however, sets overly rigid hurdles for innovative materials, which will most certainly stifle the industry's investments

into R&D of innovative materials. The current proposal risks shutting down entire European businesses in the sector and moving investments and innovation outside of Europe.

- *EUBP urges EU legislators to review the requirements on recyclability and recycled content targets for innovative materials and to allow for a 10-year derogation period for innovative materials and polymers to scale up the necessary processes and infrastructure.*
- *EUBP asks for 'natural polymers' to be clearly defined under the PPWR to guide innovation in sustainable solutions for future packaging needs. Nature-identical polymers should be treated and defined as natural polymers from the outset as they retain the original chemical structure and composition present in biomass.*

About European Bioplastics

European Bioplastics (EUBP) represents the interests of more than 80 member companies throughout the European Union. With members from the entire value chain, European Bioplastics serves as both a contact platform and catalyst for advancing the objectives of the growing bioplastics industry. For further information, please visit <http://european-bioplastics.org>.

Proposed amendments to the Commission’s PPWR proposal

The following proposed amendments to the Commission’s PPWR proposal aim to make sure innovative materials, such as biobased as well as compostable plastics are being recognised and incentivised for their considerable role in reducing the Union’s dependency on fossil-fuels, reducing GHG emissions, protecting biodiversity, and in being a fundamental driver for Europe’s economic and social growth in full respect of environment protection rules. The proposed amendments are accompanied by justifications, which also highlight the overall arguments on why the PPWR proposal is hampering the development of biobased plastics and the promise they hold for increasing recycling rates of packaging waste.

<p>Commission Proposal on Packaging and Packaging Waste Regulation COM (2022) 677 final.</p> <p>on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC.</p> <p><i>DRAFT Amendments.</i></p>	
<p>Recitals -35-36-37-38-39</p>	
<p>Commission Proposal</p>	<p>Proposed Amendment</p>
<p>(35) The bio-waste waste stream is often contaminated with conventional plastics and the material recycling streams are often contaminated with compostable plastics. This cross- contamination leads to waste of resources, lower quality secondary raw materials and should be prevented at source. As the proper disposal route for compostable plastic packaging is becoming increasingly confusing for consumers, it is justified and necessary to lay down clear and common rules on the use of compostable plastic packaging, mandating it only when its use brings a clear benefit for the environment or for human health. This is particularly the case when the use of compostable packaging helps collect or dispose of bio-waste.</p>	<p>(35) The bio-waste waste stream is often contaminated with conventional plastics. and the material recycling streams are often contaminated with compostable plastics. This cross- contamination leads <i>to environmental and economic impacts</i>, waste of resources, lower quality compost and should be prevented at source. <i>Mandating compostable plastic packaging for applications linked to food and food waste helps to reduce this contamination.</i> As the proper disposal route for compostable plastic packaging is becoming increasingly confusing for consumers, <i>Therefore,</i> it is justified and necessary to lay down clear and common rules on the use of compostable plastic packaging, mandating it only when its use brings a clear benefit for the environment or for human health. This is particularly the case when the use of compostable packaging helps collect or dispose of <i>and recycle</i> bio-waste.</p>

Justification

While the contamination of the bio-waste stream by conventional plastics is well documented (Ref: <https://zerowasteurope.eu/wp-content/uploads/2022/12/Unwrapping-the-biowaste-potential-December-2022.pdf>) that of mechanical recycling remains based on assumptions and unproven allegations. The Eunomia study “Relevance of biodegradable and compostable consumer plastic product and packaging in a circular economy” listed by the Regulation in the introduction (Collection and use of expertise) states that “In Italy where there is already widespread use of compostable plastics (about 50% of the EU market) the overall contamination rate is below the levels considered of concern for mechanical recycling before sorting

(36) For limited packaging applications made of biodegradable plastic polymers, there is a demonstrable environmental benefit of using compostable packaging, which enters composting plants, including anaerobic digestion facilities under controlled conditions. Furthermore, where appropriate waste collection schemes and waste treatment infrastructures are available in a Member State, there should be a limited flexibility in deciding whether to mandate the use of compostable plastics for lightweight plastic carrier bags on its territory. In order to avoid consumer confusion about the correct disposal and considering the environmental benefit of circularity of the carbon, all other plastic packaging should go into material recycling and the design of such packaging should ensure that it does not affect the recyclability of other waste streams.

~~(36) For limited packaging applications made of biodegradable plastic polymers, There is a demonstrable environmental benefit of using compostable packaging~~ **for specific packaging applications, in particular those linked to food and food waste**, which enters composting plants, including anaerobic digestion facilities under controlled conditions. Furthermore, where appropriate waste collection schemes and waste treatment infrastructures are available in a Member State **as required by art. 22 of Directive 2008/98**, there should be a limited flexibility in deciding whether to mandate the use of compostable plastics for lightweight plastic carrier bags on its territory. In order to avoid consumer confusion about the correct disposal and considering the environmental benefit of circularity of the carbon, all other plastic packaging **not labelled as compostable** should go into material **mechanical** recycling. ~~and the design of such packaging should ensure that it does not affect the recyclability of other waste streams.~~

Justification

It is necessary to align measures with the provisions of Directive 2008/98/EC.

(38) In order to facilitate conformity assessment with requirements on compostable packaging, it is necessary to provide for presumption of conformity for compostable packaging which is in conformity with harmonised standards adopted in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council for the purpose of expressing detailed technical specifications of those requirements and take into account, in line with the latest scientific and technological developments, the

(38) In order to facilitate conformity assessment with requirements on compostable packaging, it is necessary to provide for presumption of conformity for compostable packaging which is in conformity with harmonised standards adopted in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council for the purpose of expressing detailed technical specifications of those requirements and take into account, in line with the latest scientific and technological developments, the

parameters, including composting times and admissible levels of contamination, which reflect the actual conditions in bio-waste treatment facilities, including anaerobic digestion processes.	parameters, including quality of the output, composting proper processing times and admissible levels of contamination., which reflect the actual conditions in bio-waste treatment facilities, including anaerobic digestion processes
Justification	
<i>The harmonized standards should describe the right way to make the organic recycling of compostable packaging in order to obtain an output that can be used in agriculture (i.e., fulfilling the requirements of Regulation 1009/2019 on fertilizers).</i>	
(39) It should be recalled that all compostable packaging constituting a food contact material is to meet the requirements set out in the Regulation (EC) No 1935/2004.	Delete
Justification	
<i>All packaging constituting a food contact material is to meet the requirements set out in the Regulation (EC) No 1935/2004. Compostable packaging is comprised within the existing categories of materials described in 1935/2004.</i>	

Article 3 – Definitions	
Commission Proposal	Proposed Amendment
(37) ‘innovative packaging’ means a form of packaging that is manufactured using new materials, design or production processes, resulting in a significant improvement in the functions of packaging, such as containment, protection, handling, delivery or presentation of products, and in demonstrable environmental benefits, with the exception of packaging that is the result of modification of existing packaging for the sole purpose of improved presentation of products and marketing;	(37) ‘innovative packaging’ means a form of packaging that is manufactured using new and innovative materials and polymers , design or production processes, resulting in a significant improvement in the functions of packaging, such as containment, protection, handling, delivery or presentation of products, and in demonstrable environmental benefits, with the exception of packaging that is the result of modification of existing packaging for the sole purpose of improved presentation of products and marketing;
Justification	
<i>Recital (23) of the Commission proposal includes the overall objective of stimulating innovation in the packaging sector. However, innovative polymers are essential to innovate packaging, in terms of environmental performance and reduced carbon footprint. Limiting the “innovation” to packaging formats only, will hamper innovation and the progress of bioeconomy in Europe.</i>	

Commission proposal	Proposed Amendment
(38) 'secondary raw materials' means materials that have been obtained through recycling processes and can substitute primary raw materials;	(38) 'secondary raw materials' means materials that have been obtained through recycling processes and can substitute primary raw material <u>or any other kinds of substances or products, excluding fuels.</u> and can substitute primary raw materials;
Justification <i>Amending the definition of secondary raw material is preparatory to amendment of Art. 6 2 (d)</i>	
Commission proposal	Proposed Amendment
	<p><u>NEW</u></p> <p><u>(39a) "pre-consumer plastic waste" means plastic diverted from the waste stream during a manufacturing process. Excluded its reutilization, such as rework, regrind or scrap generated in a process and capable of being reclaimed within the same process that generated it</u></p>
Justification <i>The amendment includes "pre-consumer plastics waste", meaning plastics diverted from the waste stream during a manufacturing process (according to ISO 14021), and added to recycled waste to fulfill to the overall circular economy objectives.</i>	
Commission proposal	Proposed Amendment
	<p><u>NEW</u></p> <p><u>(43a) A natural polymer that has not been chemically modified is a polymer that:</u></p> <p><u>(1) is biobased, and</u></p> <p><u>(2) is created by using or replicating naturally occurring processes found in plants, animals, fungi, or bacteria, and</u></p> <p><u>(3) retains its basic chemical structure during any process to convert it, and</u></p> <p><u>(4) neither contains nor generates persistent synthetic polymers microparticles' during biodegradation.</u></p>

Justification

A clear definition in line with scientific evidence is needed to encourage innovation of polymers which are identical to those found in nature with the objective of reducing fossil-based plastics. Such Innovative materials retain the benefits of plastics in terms of plasticity, without being plastics, and without having a negative impact on climate, environment and health in terms of CO2 emissions and generation of microplastics. For the purposes of achieving circularity, it is important to provide a clear definition for the industry value chain of such polymers. Polymers which are nature-identical should be treated as natural polymers from the outset, independent of their place of polymerisation, since their molecular structures, properties, and biodegradation are identical. This will help to avoid contamination of recycling streams, while reducing dependency on fossil-based plastics, as well as providing clarity to consumers on their purchasing ambitions. Their impact on the risk targeted by the restriction is exactly the same.

Article 6 – Recyclable packaging

Commission Proposal

Proposed Amendment

2. (a) it is designed for recycling;

2. (a) it is designed for **chemical or mechanical or organic** recycling;

Justification

In line with the definition of the waste framework Directive which makes clear that recycling means “any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes, including the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations”. This is to ensure that landfill or incineration of bio-based material is minimised, providing a means to the recycling of bio-based material.

Commission proposal

Proposed Amendment

2. (d) it can be recycled so that the resulting secondary raw materials are of sufficient quality to substitute the primary raw materials

2. (d) it can be recycled **into** so that the ~~resulting~~ secondary raw materials are of ~~sufficient quality to substitute the primary raw materials~~ **whether for the original or other purposes. It includes the reprocessing of organic or compostable material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations;**

Justification

This requirement must be aligned with the definition of recycling in Art.3 (17) of the Waste Framework Directive.

Commission proposal	Proposed Amendment
<p>9. From 1 January 2030, and by way of derogation from paragraphs 2 and 3, innovative packaging may be placed on the market for a maximum period of 5 years after the end of the calendar year when it has been placed on the market.</p>	<p>9. From 1 January 2030, and by way of derogation from paragraphs 2 and 3, innovative packaging may be placed on the market for a maximum period of 10 years after the end of the calendar year when it has been placed on the market.</p>
<p style="text-align: center;">Justification</p> <p><i>This amendment intends to give a derogation period of 10 years to innovative polymers from the Design for Recycling criteria and “recycling at scale” measures which are forced upon innovative polymers only after 5 years. A longer derogation period will allow new materials and packaging format to build the appropriate recycling streams.</i></p>	
Commission proposal	Proposed Amendment
	<p><u>NEW</u></p> <p><u>12. In order to comply with the objective set in the present article and to promote high quality recycled materials, waste operators shall ensure that a minimum of overall 90 % by weight of all packaging waste that is collected separately, shall be sorted into defined waste streams. If the sorting of specific waste streams cannot be realized in an economically viable manner, agreements between waste operators and producers shall be defined in order to achieve the target set in this paragraph.</u></p>
<p style="text-align: center;">Justification</p> <p><i>As reported by Eurostat, between 2010 and 2020, the volume of plastic packaging waste generated per inhabitant increased by 23% (+6.5 kg). The recycled volume of plastic packaging waste increased over the same period, by 32% (+3.2 kg). However, in 2020, due to stricter rules for reporting recycling, a provisional decrease of 3 percentage points was observed (from 41% in 2019 to an estimated 38% in 2020).</i></p> <p><i>Therefore, as per today 62% of packaging waste is not being collected and/or sorted and recycled. The proposal for Regulation is (only) setting (yet to be decided) design for recycling criteria in order to fit packaging materials and/or packaging formats to the current waste management operations. However, in order to have an holistic approach the Regulation should also address the issue of packaging sorting in waste management and recycling plants. For instance, for plastic packaging, in current mechanical recycling facilities, only a limited number of plastics are actually sorted and recycled. In general, the plastics with the highest market shares are sorted. These are PET, PP and HDPE. Thanks to progress in Near Infrared (NIR) technology, density separation, AI and robotics systems in waste management many other polymers could be easily separated from other types of polymers on the sorting line.</i></p>	

Article 7 – Minimum recycled content in plastic packaging	
Commission Proposal	Proposed Amendment
Article 7 – Minimum recycled content in plastic packaging	Article 7 – Minimum recycled <i>and biobased</i> content in plastic packaging
Justification	
<i>Bio-based materials can contribute to reducing the use of virgin fossil carbon. Increasing recycled content in packaging is a very important step in this direction, and bio-based materials offer the same opportunity, provided the equivalence among recycled feedstock and bio-based feedstock is set in legislation.</i>	
Commission Proposal	Proposed Amendment
1. From 1 January 2030 plastic packaging shall contain the following minimum percentage of recycled content recovered from post-consumer plastic waste, per unit of plastic packaging:	1. From 1 January 2030 plastic packaging shall contain the following minimum percentage of recycled content recovered from <i>pre-</i> and post-consumer plastic waste <i>or bio-based content</i> , per unit of plastic packaging:
2. From 1 January 2040, the plastic part in packaging shall contain the following minimum percentage of recycled content recovered from post- consumer plastic waste, per unit of packaging:	2. From 1 January 2040, the plastic part in packaging shall contain the following minimum percentage of recycled content recovered from <i>pre and</i> post-consumer plastic waste <i>or bio-based content</i> , per unit of packaging:
Justification	
<i>The two amendments intend to include pre-consumer plastic waste among the sources that industry could use to achieve the targets. This would allow us to reach higher targets and, more importantly, will reduce waste and reduce virgin material consumption. Including pre-consumer waste in the recycled content target will incentivize efforts to close the carbon loop and achieve all of the objectives of the circular economy.</i>	
Commission Proposal	Proposed Amendment
	<i>NEW</i> <i>4a. Paragraphs 1 and 2 shall apply to innovative packaging as defined at article 3 para 37 only after 10 years of its placing on the market.</i>
Justification	
<i>Innovation does not happen overnight. Achieving economy of scale takes an average of a decade. This must be recognized to ensure investment certainty.</i>	

Commission Proposal	Proposed Amendment
<p>6. By 1 January 2030, the financial contributions paid by producers to comply with their extended producer responsibility obligations as laid down in Article 40 shall be modulated based on the percentage of recycled content used in the packaging.</p>	<p>6. By 1 January 2030, the financial contributions paid by producers to comply with their extended producer responsibility obligations as laid down in Article 40 shall be modulated based on the percentage of <u>either</u> recycled <u>or biobased content</u> used in the packaging</p>
<p style="text-align: center;">Justification</p> <p><i>The recognition of biobased content in packaging is consistent with the EU ambition to reduce greenhouse gases emission in the context of the Green Deal and the climate neutrality targets fixed for 2050. The EPR fee as leverage to promote biobased content in packaging is a tool already used in national packaging legislation in Germany.</i></p>	
Commission proposal	Proposed Amendment
<p>7. By 31 December 2026, the Commission is empowered to adopt implementing acts establishing the methodology for the calculation and verification of the percentage of recycled content recovered from post-consumer plastic waste, per unit of plastic packaging, and the format for the technical documentation referred to in Annex VII. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).</p>	<p>7. By 31 December 2026, the Commission is empowered to adopt implementing acts establishing the methodology for the calculation and verification of the percentage of recycled content recovered from <u>pre-consumer</u> and post-consumer plastic waste, per unit of plastic packaging, <u>the biobased content</u>, and the format for the technical documentation referred to in Annex VII. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).</p>
<p style="text-align: center;">Justification See above.</p>	

Article 8 – Compostable packaging	
Commission Proposal	Proposed Amendment
<p>2. Where appropriate waste collection schemes and waste treatment infrastructure are available to ensure that packaging referred to in paragraph 1 enters the organic waste management stream, Member States are empowered to require that lightweight plastic carrier bags shall be made available on their market for the first time only if it can be demonstrated that those lightweight plastic carrier bags have been entirely manufactured from biodegradable plastic polymers, which are compostable in industrially controlled conditions.</p>	<p>2. Where appropriate waste collection schemes and waste treatment infrastructure are available to ensure that compostable packaging enters the organic waste management stream, Member States are empowered to require that lightweight plastic carrier bags, and any other packaging compliant with the requirements listed in Annex III, shall be made available on their market for the first time only if it can be demonstrated that those lightweight plastic carrier bags and other packaging have been entirely manufactured from biodegradable plastic polymers, are compostable in industrially controlled conditions.</p>
<p>Justification</p> <p><i>Biodegradable polymers can either be composted or organically recycled through anaerobic digestion. As a result of these processes, (packaging) products based on such polymers and other organic materials can either decompose into biomass, or be converted into products of value, e.g. natural polymers, organic fertilisers, basis of construction material. Explicitly mentioning organic recycling is in line with the definition of the Waste Framework Directive on recycling, which seeks to ensure that less organic waste ends up in incineration or landfill but is converted/ reprocessed into other products.</i></p> <p><i>The importance of circular solutions, “scaling up of ecological alternatives that do not harm humans and ecosystems and can biodegrade organically with no manufactured chemicals and toxins released” was recently highlighted by the United Nations Development Programme in their contribution to the consultation on the UN Plastics Treaty.</i></p>	
Commission proposal	Proposed Amendment
<p>3. By [OP: Please insert the date = 24 months from the date of entry into force of this Regulation], packaging other than that referred to in paragraphs 1 and 2, including packaging made of biodegradable plastic polymers, shall allow material recycling without affecting the recyclability of other waste streams.</p>	<p>3. By [OP: Please insert the date = 24 months from the date of entry into force of this Regulation], packaging other than that referred to in paragraphs 1 and 2, including packaging made of biodegradable compostable polymers, may be put on the market if compliant with criteria listed in Annex III. allow material recycling without affecting the recyclability of other waste streams.</p>

Justification	
<p>Contamination of the bio-waste stream by conventional plastics is well documented (Ref: https://zerowasteurope.eu/wp-content/uploads/2022/12/Unwrapping-the-biowaste-potential-December-2022.pdf). Conversely, contamination of material (mechanical) recycling by compostable plastic polymers remains based on assumptions and unproven allegations. The Eunomia study “Relevance of biodegradable and compostable consumer plastic product and packaging in a circular economy” mentioned by the Commission in the introduction of the Regulation (Collection and use of expertise) states that “In Italy where there is already widespread use of compostable plastics (about 50% of the EU market) the overall contamination rate is below the levels considered of concern for mechanical recycling before sorting”.</p>	
Commission proposal	Proposed Amendment
<p>(5) The Commission shall be empowered to adopt delegated acts in accordance with Article 58 to amend paragraphs 1 and 2 of this Article by adding other types of packaging to the types of packaging covered by those paragraphs when it is justified and appropriate due to technological and regulatory developments impacting the disposal of compostable packaging and under the conditions set out in Annex III.</p>	<p>(5) After an assessment of the expert group, the Commission shall be empowered to adopt delegated acts in accordance with Article 58 to amend paragraphs 1 and 2 of this Article by adding other types of packaging to those covered by paragraphs 1 and 2 of this Article these paragraphs when it is justified and appropriate due to technological and regulatory developments impacting the disposal of compostable packaging and under the conditions set out in Annex III. A public register containing the lists of such applications should be established and updated by the Commission.</p>
Justification	
<p>Delegated acts cannot amend paragraph 1 and 2 of this Regulation. However, in line with the intention of the Commission, the proposed amendment intends to set the proper scope of the Delegated act, which is to add new applications to those listed in Par. 1 and 2.</p>	
Commission proposal	Proposed Amendment
	<p>6. (NEW) By 1 January 2030, the financial contributions paid by producers to comply with their extended producer responsibility obligations as laid down in Article 40 shall be collected and managed by dedicated extended producer responsibility scheme.</p>
Justification	
<p>A dedicated EPR scheme for compostable packaging is necessary to guarantee a level playing field and to support the separate collection of organic waste and organic waste recycling infrastructure. See also the EMF paper https://ellenmacarthurfoundation.org/extended-producer-responsibility/overview</p>	

Article 22 – Restrictions on use of certain packaging formats

Commission Proposal	Proposed Amendment
1. Economic operators shall not place on the market packaging in the formats and for the purposes listed in Annex V.	1. Economic operators shall not place on the market packaging in the formats and for the purposes listed in Annex V. Member States which have transposed art. 22 of Directive 2008/98 and have appropriate waste collection schemes and waste treatment infrastructure, may exempt from restriction compostable packaging in the formats and for the purposes listed in point 1, 2, 3 and 4 of Annex V.
Justification	
<i>Art. 22 already provides possibilities for member states to exempt economic operators from some restrictions (art.22 (3)). The use of some of the packaging formats in Annex V is strictly related to food safety, quality and hygiene requirements.</i>	

Article 47 – Rules on the calculation of the attainment of the recycling targets

Commission Proposal	Proposed Amendment
8. The amount of biodegradable packaging waste that enters aerobic or anaerobic treatment may be counted as recycled where that treatment generates compost, digestate, or other output with a similar quantity of recycled content in relation to input, which is to be used as a recycled product, material or substance. Where the output is used on land, Member States may count it as recycled only if this use results in benefits to agriculture or ecological improvement.	8. The amount of biodegradable packaging waste that enters aerobic or anaerobic treatment may be counted as recycled where that treatment generates compost or , digestate complying with the quality requirements required in Reg. EU 1009/2019 , or other output with a similar quantity of recycled content in relation to input, which is to be used as a recycled product, material or substance. Where the output is used on land, Member States may count it as recycled only if this use results in benefits to agriculture or ecological improvement.
Justification	
<i>Digestate shall comply with the requirements set by Regulation (EU) 2019/1009 of the European Parliament and of the Council of 5 June 2019 laying down rules on the making available on the market of EU fertilising products.</i>	

**Annex II
CATEGORIES AND PARAMETERIS FOR ASSESSMENT OF RECYCLABILITY OF
PACKAGING**

Category number	Predominant packaging material	Packaging type	Format (illustrative)	Colour
New 28	Plastic	Bio-based (non drop-in) polymers – flexible or rigid	Films, rigids and other innovative packaging applications	

Justification

Thanks to progress in Near Infrared (NIR) technology, density separation, AI and robotics systems in waste management, all polymers can be easily separated on the sorting line and aggregated into separate streams. Bio-based non drop-ins should be included among categories of packaging that will be assessed for the definition of the design for recycling criteria.

Category number	Predominant packaging material	Packaging type	Format (illustrative)	Colour
New 29	Plastic	Compostable packaging made of biodegradable polymers (flexible and rigid)	Films, rigids and other innovative packaging applications	

Justification

Compostable packaging, while mandated under Article 8, is not included in Annex II Table 1. Yet, as per Article 6, ALL packaging placed on the market shall be recyclable. Compostable packaging should also therefore be compliant to the recyclability characteristics.

Annex III COMPOSTABLE PACKAGING	
Commission Proposal	Proposed Amendment
	NEW (b) It cannot be recycled in an economically viable way.
Justification <i>Already today, many packaging formats out in the market are, technically seen, recyclable. However, due, e.g., to their small size, it is not possible to sort, clean, and recycle them in an economically viable manner. Therefore, these packaging formats, at best, end up in incineration. In the worst case, they are landfilled.</i>	
Commission Proposal	Proposed Amendment
<p>Conditions to be considered when mandating the use of compostable packaging format:</p> <p>(e) its use significantly reduces the contamination of compost with non-compostable packaging; and (f) its use does not increase the contamination of non-compostable packaging waste streams.</p>	<p>Conditions to be considered when mandating or the <i>introducing</i> use of compostable packaging format in the market.</p> <p>(e) (f) its use significantly reduces the contamination of compost with non-compostable packaging; or</p> <p>(f) (g) its use does not increase the contamination of non-compostable packaging waste streams.</p>
Justification <i>Some packaging applications have the potential to increase in quality and quantity food waste collection. It's in the interest of the EU Member States to increase food waste collection and improve quality of compost while at the same time reducing the quantity of food waste that is incinerated or landfilled increasing methane and CO2 emissions in the atmosphere, while fulfilling the obligation stated in the WFD to implement. Each and every single condition listed in ANNEX III by itself justifies considering mandating the use of compostable packaging format.</i>	