



MINISTRY
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Ministerial Order establishing the criteria to determine when plastic waste subjected to mechanical treatment and intended for the manufacture of plastic products ceases to be waste in accordance with Law 7/2022, of April 8, on waste and contaminated soil for a circular economy

Directive 2008/98/EC of the European Parliament and of the Council, of November 19, 2008, on waste and repealing certain Directives (hereinafter, Waste Framework Directive) and Law 7/2022, of 8 April, waste and contaminated soils for a circular economy, that incorporates it into the Spanish legal system, introduce a set of requirements that must be met so that a certain type of waste, after recovery, can no longer be considered waste.

The four requirements that must be met for this change of legal status are that the resulting substance or object be used for specific purposes; that there is a market or demand for said substance or object; that the resulting substance or object meets the technical requirements for the specific purposes, the existing legislation and the standards applicable to the products; and, finally, that the use of the resulting substance or object does not generate adverse impacts on the environment or health.

Article 6 of the Waste Framework Directive, modified by Directive (EU) 2018/851 of the European Parliament and of the Council, of May 30, 2018, provides that the application of the legal concept of the end of the waste condition may be at the European Union level, at the Member State level or on a case-by-case basis.

In the first case, the European Commission can assess the need to establish those criteria for certain waste streams through implementing acts, at the level of the entire European Union. In the second case, when they have not been established at Community level, it is the Member States that can establish these criteria for certain types of waste. In both cases, the requirements for the end of the condition of waste regulated in the directive are applicable to waste authorized as input material for the recovery operation; to the permitted treatment procedures and techniques; to the quality criteria that the materials must meet so that they can cease to be waste after the recovery operation, in accordance with the applicable regulations on products and including limit values for polluting substances when necessary; to the management systems to demonstrate compliance with the defined criteria, specifically for quality control and self-monitoring and accreditation, where appropriate; and finally, the presentation of a declaration of conformity.

In the third case, the so-called case by case, when there are no established criteria either at the European Union level or at the national level, it is the Member States that have the power to decide on a case-by-case basis for certain waste streams. Directive 2018/851, of May 30, provides that for each case the same requirements established for the two options described above can be reflected, when deemed necessary. In addition, in the latter case, the limit values for pollutants and any negative impact on the environment and human health will also be taken into account.

For its part, article 5 of Law 7/2022, of April 8, establishes that by ministerial order the specific criteria that must be met by certain waste that has been subjected to a recovery operation, including recycling, can be established so that no longer be considered as waste. For this, the previous study that, where appropriate, would have been carried out by the Coordination Commission on waste, what is established by the European Union, the applicable jurisprudence, the principles of precaution and prevention and the possible adverse impacts of the waste will be taken into account. resulting material.

It should be noted that the same approach that the new directive adopted for developments at the European Union and national level, is the one that has been applied in Spain in the development of article 5 of Law 7/2022, of April 8, through the ministerial orders of end of the waste condition.



As regards the proposal for end-of-waste criteria for certain plastic waste, within the European Union, the European Commission commissioned the Joint Research Center (hereinafter JRC) to carry out a study with technical information, to study the proposed end-of-waste criteria for certain plastic waste, and which also included all the basic information necessary to ensure compliance with the conditions of Article 6 of Directive 2008/98/EC, of November 19. This study was published in 2014 collecting the contributions of experts from the Member States and stakeholders. This document summarizes in its annex VI the set of criteria proposed for the end of the condition of waste of the so-called thermoplastics (excluding thermosets), dividing the criteria into several sections. Despite the publication of this study, no legislative initiative has yet been produced by the European Commission with the aim of establishing these criteria for the flow of plastic waste at a European level.

Subsequently, within the framework of the I Action Plan for the Circular Economy, the Commission, at the beginning of 2018, adopted the *"European Strategy for plastic in a circular economy"*, which specifically addresses aspects of both design, production and use, as well as separate collection and the current possibilities to achieve the proper treatment of this type of waste. The strategy, in addition to providing a list of specific measures, emphasizes the need to reduce the unwanted impacts on society and on the environment that derive from the use of plastics and plastic waste and incorporates as an objective to achieve from that moment and until 2025, the use of ten million tons of recycled plastic each year for the manufacture of new products, thus promoting the recycling of plastic waste in the European Union.

III

The term "plastic" encompasses a huge variety of materials that share the fact that they are made up of repeating structures called monomers, in the form of long chains. Based on this basic unit, the fundamental basis of each plastic is made up of both the polymer (chain of monomers) and all the chemical substances that are added to it to provide various characteristics. Depending on these properties, plastics can be used as insulating, thermal, structuring, lightening, protective materials, among others. Due to its recognized functionality, versatility and price, plastics find many applications in various fields that can range from the daily and domestic use of containers and packaging, to the use in elements for construction, automotive, machinery, electronics, agriculture, textiles, furniture, etc. In terms of volume, the demand for plastics for use in containers and packaging is the highest compared to other uses.

Precisely presenting so many different properties and being used in so many different applications is what makes the use of plastics so widespread and, therefore, the volume of plastic waste generation is very important and its trend in recent years has been growing. . In addition to their variety, plastics are characterized by a very diverse range in the useful life of each product, which can vary from minutes in certain consumer products, to many years in products used in construction or in machines, for example. This aspect also greatly conditions the flow of waste, as well as the presence of certain substances or chemical mixtures in some of them.

The issue of chemical substances or mixtures in plastic waste is, without a doubt, enormously relevant in terms of protecting the environment and people's health. For this reason, it has recently found a growing demand on the part of public opinion in terms of solving both the problem associated with direct contamination, and the implementation of the most appropriate treatments to manage this waste flow. In this regard, Regulation (EU) 2019/1021 of the European Parliament and of the Council, of June 20, 2019, on persistent organic pollutants (POPs) requires that waste consisting of any substance included in its annex IV, that the contain or are contaminated with it, in concentrations higher than those established in said annex, will be eliminated or recovered by means of certain operations of



treatment that guarantees the destruction or irreversible transformation of the content of the POP, not being possible its recycling. Likewise, the provisions relating to the manufacture, marketing and use of these substances in articles manufactured with the plastic that acquires the end of the condition of waste will apply.

Both from the Basel Convention and from several Member States, guidelines have been drawn up for the correct management of waste streams with the presence of POPs. In 2019, the European Commission published an ambitious study focused on reviewing the limits established in annexes IV and V of Regulation (EU) 2019/1021, of the European Parliament and of the Council, of June 20, 2019.

In this study, it is highlighted that, in general, disassembly and mechanical separation can be implemented as an efficient first step to reduce the amount of POP-containing waste that returns to the production cycles. These treatments are more established for electrical and electronic equipment waste, while for other flows such as end-of-life vehicles and construction and demolition waste, there are greater barriers at a practical level. Ideally, the separation of waste with the presence of POPs from the rest of the fractions should take place as soon as possible within the waste treatment chain.

Once they become waste, the success of recycling this flow varies greatly depending on the type of waste and its origin. Currently and according to data from the Commission itself, more than twenty-seven million tons of plastic waste are collected in Europe every year. Less than a third of that annual amount is destined for recycling plants, while significant volumes end up in landfills or incineration, or are exported. The European Commission has established that by 2030 each Member State must achieve 55% recycling of plastic packaging waste.

IV

It is necessary to differentiate, on the one hand, the plastics or plastic products production industry, called the transforming industry, from the other agents involved in the cycle of these materials when they become waste: plastic waste managers. Within the scope of this end of waste status, once plastic products are placed on the market, regardless of the fact that their useful life may vary greatly, they will eventually become waste. Then they must be treated in facilities of plastic waste managers specifically authorized for such treatments, in accordance with Law 7/2022, of April 8. It is common in this flow that, prior to its treatment for its final recovery, the plastic waste passes through other managers who usually carry out, at least, a classification. Finally, properly treated waste can be used directly as a raw material that the processing industry incorporates in the manufacture of new plastic products, whether finished or semi-finished, thus constituting a circular economy model.

It is worth adding a necessary nuance and that is that the scope of this order only covers that flow described in the previous paragraph: plastic waste that passes through one or several waste treatment plants before reaching its final recovery unit. In the industrial field, everything generated as waste from the production of plastic products (leftovers, offcuts, non-compliant products, etc.), obtained in the factory itself and directly incorporated into the processing industry, would be included within the concept of by-product, and not the end of waste condition, since it does not go through any waste manager. This aspect, which only corresponds to waste within the industrial environment that has not reached any consumer, called post-industrial waste, is not regulated by this

norma.

This is a flow that still does not have a single regulatory framework at European level. Only Portugal has published its end-of-waste criteria, in line with what was established in the JRC technical study. Given the importance of this waste stream and the absence of regulation at the European Union level, it is considered essential to have a ministerial order applicable in our country. This entails direct benefits such as a stimulus to increase the volumes of separate and efficient collection of this type of waste; an increase in recycling rates; the implementation of better treatments for waste and better control of the quality of the raw material recovered through adequate treatment operations. Additionally, the end of the condition



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of waste will reduce the administrative procedures related to shipments of waste, not being necessary for safe materials from the environmental and human health point of view, unlike what happens in the field of waste, where the control of shipments is essential.

IN

The purpose of this order is to establish the criteria for the end of the waste condition specifically for thermoplastic waste that is treated mechanically, and that will be valid for the entire territory of the State, as established in article 5 of Law 7 /2022, of April 8. They are criteria based on the technical document prepared by the JRC, previously mentioned.

Thus, the purpose of this order is to establish the requirements that thermoplastic waste admissible for mechanical treatment must meet, the requirements that waste managers must meet, the quality criteria that the resulting material must meet after the recovery operation in accordance with the regulations applicable to products, as well as the procedure for verifying compliance with the criteria relating to the end of the condition of waste through the management systems.

It is also necessary to point out that only mechanical treatments are contemplated in this standard and not others, such as the different chemical treatments that can be carried out on this same waste stream.

As a tool to ensure the complicated issue of the presence of persistent organic pollutants (POPs) in certain flows of plastic waste, it is proposed to differentiate between two levels. On the one hand, for those channels where there is greater certainty regarding the absence of POPs and hazardous substances, facilitate traceability by ensuring the origin of the waste received that is candidates for the end of waste status, and ensuring that it is being treated in a separated without mixing with waste from other sources throughout all the intervening intermediate managers. And finally, when this waste of a specific, identifiable and traceable origin reaches the final valuer, ensure that traceability simply through the declaration of conformity that is issued in each shipment of the material obtained at the latter's facility.

On the other hand, for those wastes originating, among others, from the following flows: hazardous waste, waste from electrical and electronic equipment, end-of-life vehicles and construction and demolition waste, where the presence of hazardous substances and POPs is known, The origin of the waste must also be unequivocally ensured, and separate management must be maintained with respect to the waste mentioned above, throughout all the managers that participate in the chain until reaching the final recovery unit. All this without prejudice to the fact that, with respect to this waste, its adequate decontamination must be specifically carried out, in compliance with the provisions of Regulation (EU) 2019/1021, of the European Parliament and of the Council of June 20, 2019 As a guide, a diagram on the implications that this regulation entails for plastic waste and plastic fractions, and the operations to which they must be destined according to each case, has been included in annex IV.

Each shipment of recycled plastic material, which meets these end-of-waste criteria and is therefore no longer considered waste, will be accompanied by its corresponding declaration of conformity, according to the content and indications of annex III, depending on the what is the subsequent destination of that material. In this way, in addition to ensuring traceability, this documentation requirement for each shipment is in line with the obligations derived from Regulation (EC) 282/2008 of the Commission, of March 27, 2008, on materials and objects of recycled plastic intended to come into contact with food and which modifies Regulation (EC) 2023/2006.

Given that in this specific field of materials in contact with food, the recycler must provide the transformer with the information that the recycled plastic material is produced through an authorized process, as well as specify its scope of application, all recycled plastic material that complies with this order and whose destination is the manufacture of materials or articles in contact with food must be accompanied by the declaration of conformity, which must also include certain additional information that Regulation (EC) 282/2008 of the Commission, of 27 December March, establishes in his article



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12.2, including what is specified in part B of annex I of that regulation, reproduced in annex III part 1 of this order.

Finally, those plastic waste treated in accordance with the provisions of this order are required that, after their final recovery, they can be used directly in the processing industry. The fundamental question for the end of the waste condition of this resulting material does not reside in the physical format that the obtained materials present, but in their capacity to be used directly and to be able to substitute the virgin plastic raw material in the manufacturing industry. of various plastic products.

Given that its use as a material in contact with food has already been limited and legislated by European regulations, for those treated plastic wastes that are going to be used for this very specific purpose, the provisions of the Regulation (EC) will apply specifically. 282/2008 of the Commission, of March 27, in addition to any other provision determined by the other European regulations in this regard. For this reason, within the scope of this ministerial order, two subsequent destinations must be differentiated, although both types of material are equally candidates for obtaining the corresponding purpose of waste status. On the one hand, those intended to come into contact with food, which must comply with the requirements established by current European regulations, as well as, at a national level, with Royal Decree 846/2011, of June 17, which establish the conditions that must be met by raw materials based on recycled polymeric materials for their use in materials and objects intended to come into contact with food. And on the other hand, for the rest of mechanically treated plastic materials that are going to be destined for the processing industry for the manufacture of any other type of plastic product, which must comply with their corresponding standard or with the technical specifications required by the user.

Consequently, other types of plastic waste not included in Annex I, as well as mechanically treated plastic waste that does not meet the other established criteria, will continue to be considered waste for the purposes of Law 7/2022, of April 8, and by Therefore, they must be managed in accordance with the legal regime established by it. If these plastic waste are destined for facilities for energy recovery, these facilities must comply with the provisions of Chapter IV of Royal Decree 815/2013, of October 18, which approves the Regulation of industrial emissions and development of the Law 16/2002, of July 1, on integrated pollution prevention and control, in order to ensure the environmental protection provided by this regulation.

Once this order comes into force, the option of accepting it by plastic waste managers is voluntary, but if a final manager wants to market the treated plastic waste as a product, then they must comply with the provisions of this standard. . It is necessary that, in order to know if a plastic waste manager adheres to the standard, these managers proceed to notify the corresponding regional administration. They must therefore send a communication to the regional administration that granted the authorization for the installation as provided by law, and may use the model included in Annex II.

Bearing in mind that the end-of-waste criteria will only be binding within the Member State that has established them, in accordance with what has been stated by the European Commission, when the materials are transferred to another Member State, the destination country will not has no obligation to accept the classification of the material as non-waste that is based on the end-of-waste criteria of the country of origin. Therefore, except prior and express position of the country of destination, indicating that it accepts said classification as a product, the transfer will be carried out in accordance with Regulation (EC) 1013/2006 of the European Parliament and of the Council, of June 14, 2006, related to waste shipments. In any case, if the country of origin or destination is a third party, that is, a non-member State of the European Union, the transfer will be carried out in accordance with the aforementioned regulation.



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This rule is in line with the principles of good regulation as established in article 129 of Law 39/2015, of October 1, on the Common Administrative Procedure of Public Administrations. In accordance with the principles of necessity and effectiveness, this order is based on the adequate protection of human health and the environment, facilitating the reincorporation into the productive cycle of the production of plastic products only those safe materials that meet the specifications required for later use. In addition, it is based on a clear identification of the objectives pursued, and given the technical nature of the requirements that are imposed, it is considered that this is the appropriate instrument to achieve it.

This standard complies with the principle of proportionality, since it regulates the essential aspects for the purpose it pursues, which is to determine when certain plastic waste that has been treated mechanically and adequately, can cease to be considered as waste, in accordance with Law 7/2022, of April 8.

In accordance with the principle of legal certainty, the regulation is consistent with the rest of the national legal system and the European Union, it provides greater legal certainty since it establishes a stable, predictable, integrated and certainty regulatory framework, which facilitates its knowledge. and understanding and, consequently, the action and decision-making of the affected sectors.

It is also in line with the principle of transparency since all public information and hearing procedures have been scrupulously followed.

Finally, in application of the principle of efficiency, this standard ensures maximum effectiveness in achieving its objectives with the lowest possible costs in its application.

This ministerial order has been submitted to the information procedure regarding regulations, regulated in Royal Decree 1337/1999, of July 31, which regulates the submission of information on standards and technical regulations and regulations relating to information society services, for the purpose of complying with the provisions of Directive (EU) 2015/1535, of the European Parliament and of the Council, of September 9, 2015, which establishes a procedure for information on technical regulations and rules relating to company services of the information.

The authorization to develop this order is found in article 5 of Law 7/2022, of April 8, and its constitutional basis in article 149.1.23 of the Spanish Constitution, which attributes exclusive jurisdiction to the State in matters of legislation. basic on environmental protection without prejudice to the powers of the autonomous communities to establish additional protection standards.

In the preparation of this ministerial order, the autonomous communities and the representative entities of the affected sectors have been consulted; Likewise, it has been submitted to the public information process, it has been sent to the Coordination Commission on waste and the Environmental Advisory Council, in application of the provisions of Law 27/2006, of July 18, by the that the rights of access to information, public participation and access to justice in environmental matters are regulated.

By virtue of this, with the prior approval of the Minister of Finance and Public Administration, of agreement/heard the Council of State, I have

Article 1. *Purpose and scope of application.*

1. The purpose of this order is to establish the criteria to determine when plastic waste treated mechanically and subsequently destined for the manufacture of plastic products ceases to be



be a waste in accordance with Law 7/2022, of April 8, on waste and contaminated soil for a circular economy.

2. Plastic waste that does not comply with the provisions of this order will be considered waste and will be recovered or eliminated in accordance with Law 7/2022, of April 8, and those other applicable regulations.

3. The criteria established in this order are applicable throughout the territory of the State.

Article 2. Definitions.

For the purposes of this order, in addition to the definitions included in Law 7/2022, of April 8, it will be understood as:

a) «Plastic»: the material composed of a polymer as defined in article 3.5 of Regulation (EC) 1907/2006 of the European Parliament and of the Council, of December 18, 2006, regarding the registration, evaluation, authorization and restriction of chemical substances and mixtures (REACH), which creates the European Agency for Chemical Substances and Mixtures, modifies Directive 1999/45/EC and repeals Council Regulation (EEC) 793/93 and Commission Regulation (CE) 1488/94, as well as Council Directive 76/769/CEE and Directives 91/155/CEE, 93/67/CEE, 93/105/CE and 2000/21/CE of the Commission, to which additives or other substances may have been added, and which may function as the main structural component of the final products, with the exception of natural polymers that have not been chemically modified;

b) «Plastic waste»: product that is made of plastic or that contains plastic, which is discarded or has the intention or obligation to discard. This term encompasses waste from the post-industrial and post-consumer fields, both that which is still untreated and that which is treated;

c) «Recycled plastic material»: material obtained from plastic waste subjected to mechanical treatment in authorized management facilities, considered as final treatment, which complies with the provisions of this standard and is no longer considered as waste for the purposes of the Law 7/2022, of April 8;

d) «Non-plastic component»: any material of a nature other than polymers and additives chemicals that are part of some plastic waste or recycled plastic material;

e) «Producer»: the authorized waste manager who carries out the final treatment operations to obtain a material with certain characteristics and who transfers it for the first time as recycled plastic material that has ceased to be waste;

f) «Possessor»: The natural or legal person who owns the recycled plastic material;

g) "Importer": any natural or legal person who introduces into Spain recycled plastic material that has ceased to be waste in accordance with this order, either from a Member State of the European Union, either from a third country;

h) "Merchant": any natural or legal person involved in the purchase of recycled plastic material that has ceased to be waste in accordance with this order, and in the subsequent sale to the manufacturing plants of plastic products, even if it does not reach it. physically possess;

i) «Qualified personnel»: those who, due to experience or training, can examine and evaluate suitably the properties of both plastic waste and recycled plastic material;

j) «Visual inspection»: inspection of all the plastic waste or material recycled plastic using sight or other senses, or any non-specialized equipment;



k) «Batch»: unit of recycled plastic material that has the same quality, which has been generated in the same treatment facility and in which the requirements established in Annex I section 3 are verified;

l) «Shipment»: batch of recycled plastic material that a producer sends to another holder and that it may be contained in one or more transport units, such as containers.

Article 3. *Criteria for the end of the waste condition.*

1. The recycled plastic material that is used for the manufacture of plastic products will cease to be waste at the time it leaves the producer's facilities for the holder's facilities and the following is fulfilled:

- a) The plastic waste to be treated must be exclusively those that meet the criteria of annex I section 1;
- b) The plastic waste has been subjected to one or more recovery operations in accordance with the criteria established in annex I section 2;
- c) The treated plastic waste meets the criteria established in annex I section 3;
- d) The producer or importer has satisfied the obligations established in articles 5, 6 and 7, and in article 4 when applicable.

2. Natural or legal persons who want to obtain recycled plastic material must comply with the provisions of this standard, and must inform the autonomous community where the final treatment facility is located, where the recycled plastic material is obtained, that these requirements are met. criteria before making the first shipment. This communication will be made through a request addressed to the competent regional authority that granted the authorization to that facility, including at least the content indicated in Annex II.

Article 4. *Recycled plastic material intended for the manufacture of materials in contact with food.*

In accordance with the regulations in force at European level, when the destination of the recycled plastic material is going to be the manufacture of materials or articles in contact with food, the waste will reach the end of the waste condition in the facilities of the plastic waste managers that comply with the provisions of Regulation (EC) 282/2008 of the Commission, of March 27, 2008, on recycled plastic materials and objects intended to come into contact with food and by which the Regulation (EC) 2023/2006, and all other applicable European provisions.

Article 5. *Declaration of conformity.*

1. The producer or importer shall issue for each shipment of recycled plastic material that has left if it is waste, a declaration of conformity according to the corresponding model of Annex III.

2. The producer, importer or trader shall transmit the declaration of conformity to the following holder of the consignment of recycled plastic material.



3. The producer, importer or trader shall keep a copy of the declaration of conformity for at least three years after its date of issue and shall make it available to the competent authorities when required.

4. The declaration of conformity may be issued by any means, on paper or in electronic format, provided that it guarantees its authenticity, the integrity of its content and its legibility from its date of issue and throughout the period of conservation.

5. The declaration of conformity must accompany the transport of each shipment. If the shipment is made in several transport units, each of them must have a copy of the declaration of conformity.

Article 6. *Management system.*

1. The producer will implement a management system that allows demonstrating compliance with the criteria indicated in article 3.

2. The management system shall include a series of documented procedures in relation to each of the following aspects:

- 1;
 - a) control of the admission of waste subject to recovery treatment as established in annex I section 1;
 - b) supervision of the process and treatment requirements described in annex I section 2;
 - c) quality control of the material obtained, as established in annex I section 3 (sampling and analysis included);
 - d) observations of the next possessor on the fulfillment of the requirements of the resulting material;
 - e) recording of the results of the controls carried out in accordance with letters a) to c);
 - f) review and improvement of the management system; Y
 - g) staff training.

3. The management system will also include the specific control requirements, with respect to the criteria established in annex I.

4. The management system must include the sampling design methodology and the taking of samples for the material resulting from recovery, in accordance with the technical standards UNE-CEN/TS 16011 EX. Plastics. Recycled plastics. Sample preparation, and the PD CEN/TS 16010 Plastics standard. Recycled plastics. Sampling procedures for testing plastics waste and recyclates, in its most updated and current version.

5. An accredited conformity assessment body to carry out said certification, in accordance with Regulation (CE) 765/2008 of the European Parliament and the Council, of July 9, 2008, which establishes the requirements of accreditation and by which Regulation (EEC) 339/93 is repealed, will certify that the management system implemented by the producer complies with the requirements of this article.

6. The producer shall provide the competent authorities with access to the management system and the corresponding records, when required.

7. When any of the previous treatments mentioned in section 2 of Annex I is carried out by a waste manager other than the producer, the latter shall ensure that said manager has a management system that guarantees compliance with the established requirements. in this article.



8. The importer will require its suppliers to implement a management system that meets the requirements of sections 2, 3 and 4 of this article. Said management system will be certified by an accredited conformity assessment body to carry out said certification, in accordance with Regulation (EC) 765/2008 of the European Parliament and of the Council, of July 9, 2008.

Article 7. *Other obligations of the producer.*

1. The producer, as a waste manager, will include in the chronological file provided for in article 64 of Law 7/2022, of April 8, the information related to: a)

- The lot number,
- b) The date of departure of the lot,
- c) The identification of the client and
- d) The amount traded.

Additionally, in the annual report provided for in article 65.1 of the aforementioned law, the producer must include information regarding the amount of treated plastic material that is marketed as a product, and its destination.

2. For each batch, the producer must keep for at least three years the information that allows verification of compliance with the requirements set out in Annex I.

Article 8. *Obligations of waste managers who intervene before the producer.*

1. In order to guarantee maximum traceability, in the case of plastic waste from, among others, the following flows: hazardous waste, waste from electrical and electronic equipment, end-of-life vehicles or construction and demolition waste, it will be ensured that are treated separately and are not mixed with other plastic waste from other sources, at its facility.

2. When the subsequent destination of the recycled plastic material obtained in the producer's facilities is the manufacture of materials or articles in contact with food, in accordance with the provisions of Regulation (EC) 282/2008 of the Commission, of March 27, the waste managers who have intervened before the producer will comply with the requirements for collection and prior treatment established by this regulation, including the implementation of a management system certified by third parties.

Unique additional provision. Adaptation of the authorizations of waste managers.

For all those final managers who have communicated to the competent authority of the autonomous community the fulfillment of this order in accordance with the provisions of article 3.2, in the authorization of their installation it will be stated as a final recovery operation on plastic waste the codified as "R0307 Recycling of organic waste for the production of materials or substances".

Unique transitional provision. Transitional regime.

In the event that the autonomous communities have granted authorizations to managers and treatment facilities that allow obtaining recycled plastic as a product, R03 recovery operation according to the previous law, these natural or legal persons and these facilities must request the adaptation of the authorization in the period of three months from the publication of this order.

For the above cases, and once eighteen months have elapsed from the date of entry into force of this order, only recycled plastic that complies with the provisions of this order may be marketed as a product.



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ministerial order. This period will be reduced to three months in cases in which the managers and facilities mentioned in the previous paragraph have not proceeded to request the adaptation of their authorization.

First final provision. *Competence title.*

This order is issued under the provisions of article 149.1.23 of the Spanish Constitution, which attributes to the State exclusive jurisdiction in matters of basic legislation on environmental protection without prejudice to the powers of the autonomous communities to establish additional regulations. of protection.

Second final provision. *Entry into force.*

This order will enter into force twenty days after its publication in the "Official State Gazette".



ANNEX I End of waste status criteria

1. Plastic waste admitted for final recovery treatment

The plastic waste that is the subject of this order will be called thermoplastic waste and the following requirements must be met:

criteria	control requirements
<p>1. The LER codes of the admissible waste at the entrance of this treatment will be exclusively</p> <p>a) <u>Within post-industrial waste:</u></p> <p>07 02 13 Plastic waste (from the manufacture, formulation, distribution and use of plastics, synthetic rubber and artificial fibers)</p> <p>12 01 05 Plastic chips and burrs (from molding and physical and mechanical surface treatment of metals and plastics)</p> <p>b) <u>Within post-consumer waste:</u></p> <p>02 01 04 Plastic waste except packaging (from agriculture, horticulture, aquaculture, forestry, hunting and fishing)</p> <p>15 01 02 Plastic packaging (including packaging waste from municipal selective collection),</p> <p>15 01 10* Containers that contain traces of dangerous substances or are contaminated by them (only when the containers are made of plastic)</p> <p>16 01 19 Plastic (from the treatment of self-propelled means of transport at the end of their useful life or from their maintenance and repair processes)</p> <p>17 02 03 Plastic (from construction and demolition waste)</p> <p>19 12 04 Plastic and rubber (for plastic from mechanical waste treatment plants) ¹</p> <p>20 01 39 Plastics (from separately collected fractions (except those specified in subchapter 15 01))</p>	<p>The acceptance of the plastic waste (or derived plastic fractions) used at the entrance of the facility must be controlled by qualified personnel who are trained to recognize, through a visual inspection and the accompanying documentation, which waste does not comply these criteria.</p> <p>If necessary, laboratory tests will be carried out in accordance with the applicable legislation to determine the hazardous characteristics of the waste.</p>

¹ Commission communication 2018/C 124/01 indicates that the LER code 19 12 04 can come from both WEEE treatment plants and other types of facilities that carry out mechanized treatment.

Plastic waste (or derived plastic fractions) containing persistent organic pollutants in concentrations above the established legal limit, in accordance with the provisions of Regulation (EU) 2019/1021 on persistent organic pollutants (POPs), will not be admissible.

The plastic fractions obtained in mechanized waste treatment facilities that are intended to be used to achieve the end of the waste condition must be evaluated to determine their dangerous characteristics. The LER code 19 12 04 may only be assigned to those plastic fractions in which the absence of hazardous characteristics has been verified. Code 19 12 11* Other waste (including mixtures of materials) from the mechanical treatment of waste containing hazardous substances will apply to the plastic fractions obtained in facilities that do not guarantee the non-hazardous nature of the waste. This differentiation criterion will be applied between the two LER codes mentioned in all mechanized treatment facilities, regardless of the origin of the waste they treat.



As for chapters 18 01 and 18 02, clarify that plastic waste with LER codes 18 01 03* and 18 02 02*, as well as LER 18 01 02, 18 01 04 and 18 02 03, after disinfection is could also be considered as admissible waste.	
2. Residues of used personal hygiene products will not be admissible.	
3. Waste classified as hazardous will not be admissible, except if it is shown that after applying the necessary treatment operations, said waste has no hazardous characteristics as indicated in point 3 of the following section.	
4. Thermosetting plastic waste will not be admissible.	
<p>5. Plastic waste (or derived plastic fractions) that contain persistent organic pollutants concentrations higher than the established legal limit, in accordance with Regulations (EU) 2019/1021 of the European Parliament and of the Council, of June 20, 2019, shall not be admissible. 2019, on persistent organic pollutants (POPs).</p> <p>For the destination in contact with food, the absence of persistent organic contaminants is specifically required, and the absence of any other contaminant that does not guarantee the food safety of that recycled plastic material.</p>	
	The procedure to apply the requirements on the characteristics of danger and on the presence of POPs must be documented as part of the management system, and must be capable of being audited.

2. Treatment of plastic waste

Plastic waste both in the facilities of the waste managers that intervene before the producer and in the facilities of the producers themselves, must comply with the following:

1. Be stored separately from any other type of waste. Nor should they be mixed with other types of waste.



2. Be subjected to all the necessary mechanical treatments to ensure that they are suitable for direct use in the manufacture of new plastic products (finished or semi-finished), including at least classification and grinding. Additionally, other mechanical treatments can be carried out that will be essential depending on the type of plastic waste and depending on the subsequent application to which it will be destined, such as: mechanical reduction of size by rolling or micronizing, washing, centrifuging, drying, filtering, agglomerated, extruded and pelletized.
3. In the event that after the final recovery treatment the subsequent application is in the field of use in contact with food, the restrictions established by Regulation (EC) 282/2008 of the Commission, of March 27, will be followed. established in its Annex I for each recycling technology. When the recycling technology has not yet been included in that annex I, but the opinion is published scientist of the European Agency for Food Safety (EFSA) regarding recycling technology, the restrictions contained in that document will be followed.
4. In the case of the waste indicated in criterion 3 of section 1 of annex I, the necessary decontamination treatments must be applied (established, where appropriate, by its specific regulations), to eliminate the dangerous characteristics that may introduce.

3. Requirements for the recycled plastic material obtained

criteria	control requirements
<p>1. When applicable, the available standards must be used for the characterization of recycled plastic material, established by the corresponding UNE EN technical standards, in their most up-to-date and current version:</p> <ul style="list-style-type: none"> - For polystyrene: UNE-EN 15342 Plastics. Recycled plastics. Characterization of recycled polystyrene (PS) - For polyethylene: UNE-EN 15344 Plastics. Recycled plastics. Characterization of recycled polyethylene (PE) - For polypropylene: UNE-EN 15345 Plastics. Recycled plastics. Characterization of recycled polypropylene (PP) - For poly(vinyl chloride): UNE-EN 15346 Plastics. Recycled plastics. Characterization of recycled poly(vinyl chloride) (PVC) 	<p>Verification of compliance with the respective standard or specification of each batch of the consignment must be carried out by qualified personnel.</p> <p>Product quality shall be verified by:</p> <ul style="list-style-type: none"> - Visual inspection. γ Physicochemical characterization: performance of the laboratory tests contemplated in the regulations relating to each type of plastic, or in the technical specifications and specific industrial regulations for the purpose for which the recovered plastic is intended. Likewise, it may be necessary to carry out other laboratory tests, in accordance with the additional specifications of the client. <p>With the appropriate periodicity and subject to review in the event of significant changes in the operating process, representative samples of each type of recycled plastic material must be analysed.</p> <p>The appropriate frequency for sampling should be established, taking into account the following factors:</p>



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<p>- For poly(ethylene terephthalate): UNE EN 15348 Plastics. Recycled plastics. Characterization of recycled poly(ethylene terephthalate) (PET)</p> <p>When there is no technical standard for its characterization, the material obtained must comply with the customer's technical specifications for direct use in the processing industry, either for the manufacture of materials and articles in contact with food or for the manufacture of any other product. of plastic.</p>	<p>ÿ The predicted variability (for example, based on historical results).</p> <p>ÿ The inherent risk of variation in the quality of plastic waste at the entrance to the facility where the recovery operation is carried out by mechanical treatment, in particular the high average content of plastics with hazardous substances.</p> <p>ÿ The inherent precision of the sampling method.</p> <p>ÿ The proximity of the results with respect to the concentration limits, from which the material is considered dangerous or its commercialization is limited.</p> <p>ÿ The proximity of the results of the content of non-plastic components in relation to the maximum limit of 2% of the total recycled plastic material, in dry weight.</p> <p>Representative samples must be obtained in accordance with the sampling procedures described in the procedures manual, which must be as detailed as possible (sampling methodology used, periodicity, size, type and number of samples, statistical approach, etc.).</p>
<p>2. The content of non-plastic components must be less than or equal to 2% by weight dry.</p> <p>For destination in contact with food</p> <p>The absence of non-plastic components, the absence of foreign bodies and the absence of plastic textile fibers are specifically required. In addition, depending on the application for which it is intended and in accordance with the customer's technical specifications, it must not contain plastic/polymer components other than the one being manufactured in accordance with specifications.</p>	<p>Qualified personnel must be trained on the possible types of contamination in the plastic waste stream, as well as on the components or characteristics that allow these contaminants to be visually recognized.</p> <p>The procedure to verify compliance with the technical specifications that apply to the material must be documented as part of the management system and must be available for audits.</p>
<p>3. The resulting material must not be classified as dangerous according to the</p>	<p>They must undergo a qualitative and quantitative characterization that will verify the</p>



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<p>Regulation (CE) 1272/2008 of the European Parliament and of the Council, of December 16, 2008, on classification, labeling and packaging of substances and mixtures, and by which Directives 67/548/CEE and 1999/45/EC and amending Regulation (EC) 1907/2006 (CLP Regulation).</p> <p>The limitations for the commercialization of highly worrying substances will be applied, substances that meet the criteria of article 57 of Regulation (CE) 1907/2006 of the European Parliament and of the Council of December 18, 2006</p> <p>(REACH Regulation), unless they are subject to authorization or exemption in accordance with the provisions of the regulation.</p> <p>It will comply with the other applicable provisions established by the Regulation (CE) 1907/2006 of the European Parliament and of the Council, of December 18, 2006, and by Regulation (CE) 1272/2008 of the European Parliament and of the Council, of December 16, 2008.</p> <p>It will comply with the prohibitions or limitations for the use or commercialization of persistent organic pollutants established in Regulation (EU) 2019/1021 and June 20, 2019. In accordance with existing regulations, for the destination in contact with food, the absence of persistent organic pollutants is required</p> <p>in the resulting material.</p>	<p>compliance with these requirements and with the provisions of the CLP, REACH and COP Regulations.</p> <p>In addition to quantitative characterization, all lots in a shipment should be visually inspected by qualified personnel.</p> <p>Qualified personnel must be trained on the possible types of contamination in the plastic waste stream, as well as on the components or characteristics that allow these contaminants to be visually recognized.</p> <p>The procedure to recognize the characteristics of danger must be documented as part of the management system and must be available for audits.</p>
<p>4. The resulting material must not contain oils, solvents, paints or traces of aqueous and/or fatty foods.</p> <p>Additionally, for the destination in contact with food, the resulting material must not contain any substance that endangers the food safety of the product to be contained.</p>	<p>When visual inspection detects signs of absorption of fluids, other than water, which may give rise to mold growth or odors, for example, and these signs are not insignificant, that lot should be considered waste.</p> <p>Qualified personnel must be trained on these potential contaminants, as well as on the components or characteristics of the materials that allow the contaminants to be recognized.</p> <p>The recognition activity of contaminants present must be</p>

	documented as part of the management system and must be available for audits.
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ANNEX II

Minimum content of the communication addressed to the corresponding regional authority regarding compliance with this order

The waste management company authorized with NIMA..... on the date, whose facilities are located in..... by means of this letter addressed to *(Ministry.../Department...)* of the Autonomous Community,

REPORT the following:

- The company.....complies with all the provisions established in the ministerial order establishing the criteria to determine when plastic waste subjected to mechanical treatment and intended for the manufacture of plastic products ceases to be waste in accordance with the Law 7/2022, of April 8, on waste and contaminated soil for a circular economy.
- The company.....has a management system implemented and in accordance with what said order collects in its article 6.
- The company..... has carried out the necessary adaptations, improvements or actions to guarantee compliance with the order, and submits the necessary documentation along with this application to prove it. *(if applicable due to modifications made to the facilities)*

And for all this **REQUESTS** (Council.../Department...)

- 1) That they state that they have been informed by this company, by way of a responsible statement, of complying with the provisions of the ministerial order so that the material obtained in its facilities is no longer considered as waste, for all legal purposes, and
- 2) That they proceed to review and update the current authorization of the waste manager, in accordance with Law 7/2022, of April 8, on waste and contaminated soil for a circular economy, and specifically in accordance with its annex II where codes for waste recovery operations are established.

Place, date, signature.



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ANNEX III

Declaration of conformity with the criteria to determine when treated plastic waste ceases to be waste

1. Declaration of conformity for recycled plastic material intended to manufacture materials or articles in contact with food

In accordance with Regulation (EC) 282/2008 of the Commission, of March 27, the declaration of conformity required in these cases as established in its article 12.2, must additionally include the following information, specified in part B of the annex I of the aforementioned regulation, namely:

- 1) the statement that the recycling process has been authorized, indicating the registration number CE of the authorized recycling process;
- 2) the declaration that the plastic input, the recycling process and the recycled plastic comply with the specifications according to which the authorization has been granted;
- 3) the declaration that a quality assurance system is applied in accordance with section B of the annex to Regulation (EC) 2023/2006 of the Commission of December 22, 2006 on good manufacturing practices for materials and objects intended for come into contact with food.



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2. Declaration of conformity for recycled plastic material destined to manufacture other products

1	Producer/Importer of the material Name: Address: Contact person: Phone: Email: Registration number in the Production and Waste Management Registry:
2	Type of recycled plastic material (<i>indicate</i>): <input type="checkbox"/> HDPE (high density polyethylene) <input type="checkbox"/> LDPE (low density polyethylene) <input type="checkbox"/> PET (poly (ethylene terephthalate)) <input type="checkbox"/> PP (polypropylene) <input type="checkbox"/> PS (polystyrene) <input type="checkbox"/> PVC (poly(vinyl chloride)) <input type="checkbox"/> EPS (expanded polystyrene) <input type="checkbox"/> Other (<i>specify</i>) Content in non-plastic components (%):
3	Lot number and quantity (tonnes):
4	This shipment meets the criteria mentioned in article 3 of the ministerial order establishing the criteria to determine when plastic waste subjected to mechanical treatment and intended for the manufacture of plastic products ceases to be waste in accordance with Law 7/ 2022, of April 8, on waste and contaminated soil for a circular economy.
5	Regarding this shipment, traceability from the origin is guaranteed from the point of generation of the waste, and this can be demonstrated and documented, in accordance with article 8 of the ministerial order that establishes the criteria to determine when the plastic waste submitted to mechanical treatments and intended for the manufacture of plastic products cease to be waste in accordance with Law 7/2022, of April 8, on waste and contaminated soil for a circular economy.
6	The producer of the material implements a management system in accordance with article 6 of the ministerial order that establishes the criteria to determine when plastic waste subjected to mechanical treatments and intended for the manufacture of plastic products ceases to be waste in accordance with the Law 7/2022, of April 8, on waste and contaminated soil for a circular economy.
7	The material in this shipment is intended for direct sale or through a commercial agent/distributor to be used exclusively in the plastic materials processing sector.
8	(<i>choose one of the options</i>): <input type="checkbox"/> The shipment complies with the following technical standard: (<i>specify number</i>) <input type="checkbox"/> The shipment complies with the technical specifications required by the destination industry.
9	The material in this shipment is not classified as hazardous, as established by the criteria of the Regulation (EC) 1272/20082 (CLP Regulation), complies with the provisions relating to the marketing of substances of high concern, as well as with the restrictions of the

² Regulation (CE) 1272/2008 of the European Parliament and of the Council, of December 16, 2008, on classification, labeling and packaging of substances and mixtures, and by which Directives 67/548/CEE and 1999/ 45/EC and Regulation (EC) No 1907/2006 is amended.



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	Annex XVII of Regulation (EC) 1907/20063 (REACH Regulation) and with the prohibitions or restrictions on the use and marketing of persistent organic pollutants imposed by Article 3 of Regulation (EU) 2019/10214 (COP Regulation).
10	<p>Declaration of the producer/importer of mechanically treated plastic waste that ceases to be waste in accordance with Law 7/2022, of April 8, on waste and contaminated soil for a circular economy.</p> <p>I certify that the above information is complete and correct to the best of my knowledge.</p> <p>Name, date, signature.</p>

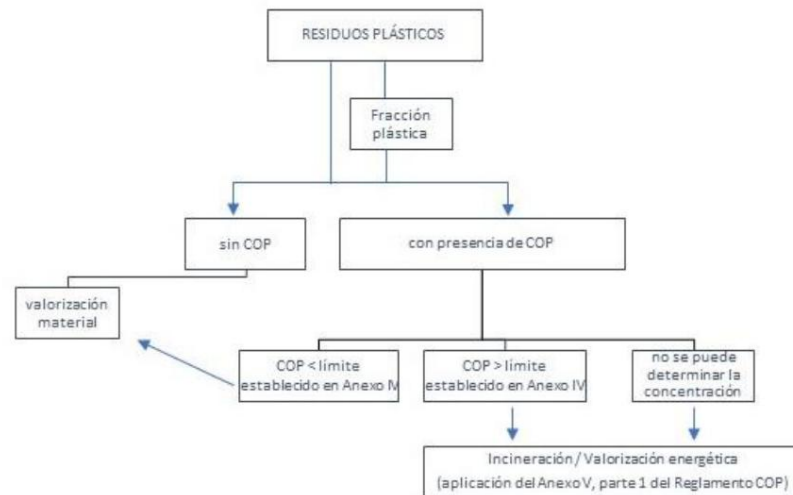
³ Regulation (CE) 1907/2006 of the European Parliament and of the Council, of December 18, 2006, regarding the registration, evaluation, authorization and restriction of chemical substances and mixtures (REACH), by which the Agency is created European Union of Chemical Substances and Mixtures, Directive 1999/45/EC is amended and Regulation (EEC) 793/93 of the Council and Regulation (EC) 1488/94 of the Commission are repealed, as well as Directive 76/769/ CEE of the Council and Directives 91/155/CEE, 93/67/CEE, 93/105/CE and 2000/21/CE of the Commission.

⁴ Regulation (EU) 2019/1021 of the European Parliament and of the Council, of June 20, 2019, on persistent organic pollutants.



ANNEX IV

Guidance scheme on the application of the COPi Regulation to plastic waste



i The treatments referred to in Annex V, part 1 of the European Regulation (EU) 2019/1021 of the European Parliament and of the Council, of June 20, 2019, on persistent organic pollutants (POPs), applied to the flow of plastic waste, son:

D 9 Physical-chemical treatment
D 10 Incineration on land

R 1 Main use as fuel or other means of energy generation, excluding waste containing PCB