Regulation (EU) No 660/2014 of the European Parliament and of the Council of 15 May 2014 amending Regulation (EC) No 1013/2006 on shipments of waste

REGULATION (EU) No 660/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 15 May 2014

amending Regulation (EC) No 1013/2006 on shipments of waste

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee[(1)],

Having regard to the opinion of the Committee of the Regions[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) In order to protect the environment, Regulation (EC) No 1013/2006 of the European Parliament and of the Council[(4)] lays down requirements for shipments of waste both within the Union and between the Member States and third countries. However, divergences and gaps have been identified in the enforcement and inspections carried out by the authorities involved in inspections in Member States.

(2) Adequate planning of inspections of shipments of waste is necessary to establish the capacity needed for inspections and to effectively prevent illegal shipments. The provisions relating to enforcement and inspections laid down in Article 50 of Regulation (EC) No 1013/2006 should therefore be strengthened with a view to ensuring regular and consistent planning of such inspections. Inspection plans should be established for inspections carried out in accordance with those provisions. Inspection plans should be based on a risk assessment and should include a number of key elements, namely objectives, priorities, the geographical area covered, information on planned inspections, the tasks assigned to authorities involved in inspections, arrangements for cooperation between those authorities involved in inspections in a Member State, in different Member States, as well as, where appropriate, between those authorities in Member States and in third countries, and information on the training of inspectors as well as on the human, financial and other resources for the implementation of the inspection plan concerned.

(3) Inspection plans may either be drawn up separately or as a clearly defined part of other plans.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) No 660/2014 of the European Parliament and of the Council. (See end of Document for details)*

(4) As inspection plans are covered by Directive 2003/4/EC of the European Parliament and of the Council[5], the provisions of that Directive, including, where applicable, the exceptions in Article 4 thereof, apply to such plans.

(5) The outcome of inspections and the measures taken, including any penalties imposed, should be made available to the public, including electronically via the internet.

(6) Diverging rules exist throughout the Union as regards the power of, and possibility for, authorities involved in inspections in Member States to require evidence to ascertain the legality of shipments. Such evidence could concern, inter alia, whether the substance or object is waste within the meaning of Regulation (EC) No 1013/2006, whether the waste has been correctly classified, and whether the waste will be shipped to environmentally sound facilities in accordance with Article 49 of that Regulation. Article 50 of Regulation (EC) No 1013/2006 should therefore provide the possibility for authorities involved in inspections in Member States to require such evidence. Such evidence may be requested on the basis of general provisions or on a case-by-case basis. Where such evidence is not made available or is considered to be insufficient, the carriage of the substance or object concerned, or the shipment of waste concerned should be considered as an illegal shipment and should be dealt with in accordance with the relevant provisions of Regulation (EC) No 1013/2006.

(7) Illegal shipments of waste frequently stem from uncontrolled collection, sorting and storage. Carrying out inspections of shipments of waste in a systematic manner should therefore contribute to identifying and addressing those uncontrolled activities, thereby promoting the implementation of Regulation (EC) No 1013/2006.

(8) In order to allow sufficient time for Member States to prepare for the application of the measures required under Article 50 of Regulation (EC) No 1013/2006, as amended by this Regulation, it is appropriate that the first inspection plans be adopted by 1 January 2017.

(9) As a consequence of the entry into force of the Lisbon Treaty, the power conferred on the Commission under Regulation (EC) No 1013/2006 should be aligned with Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU).

(10) The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the amendment of certain non-essential elements of Regulation (EC) No 1013/2006. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(11) In order to ensure uniform conditions for the implementation of Regulation (EC) No 1013/2006, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[6].

(12) Regulation (EC) No 1013/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1013/2006 is amended as follows:

(1) in Article 2, the following points are added:

7a. "re-use" is as defined in Article 3(13) of Directive 2008/98/EC of the European Parliament and of the Council[(7)].

35a. "inspection" means actions undertaken by the authorities involved to ascertain whether an establishment, an undertaking, a broker, a dealer, a shipment of waste or the related recovery or disposal complies with the relevant requirements set out in this Regulation.;

(2) in Article 26, paragraph 4 is replaced by the following:

4. Subject to the agreement of the competent authorities concerned and of the notifier, the information and documents listed in paragraph 1 may be submitted and exchanged by means of electronic data interchange with electronic signature or electronic authentication in accordance with Directive 1999/93/EC of the European Parliament and of the Council[(8)], or a comparable electronic authentication system which provides the same level of security.

With a view to facilitating the implementation of the first subparagraph, the Commission shall, where feasible, adopt implementing acts establishing the technical and organisational requirements for the practical implementation of electronic data interchange for the submission of documents and information. The Commission shall take into consideration any relevant international standards, and shall ensure that those requirements are in conformity with Directive 1999/93/EC or provide at least the same level of security as provided for under that Directive. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59a(2).;

(3) Article 50 is amended as follows:

(a) paragraph 2 is replaced by the following:

2. Member States shall, by way of measures for the enforcement of this Regulation, provide, inter alia, for inspections of establishments, undertakings, brokers and dealers in accordance with Article 34 of Directive 2008/98/EC, and for inspections of shipments of waste and of the related recovery or disposal.;

(b) the following paragraph is inserted:

2a. By 1 January 2017, Member States shall ensure that, in respect of their entire geographical territory, one or more plans are established, either separately or as a clearly defined part of other plans, for inspections carried out pursuant to paragraph 2 ("inspection plan"). Inspection plans shall be based on a risk assessment covering specific waste streams and sources of illegal shipments and considering, if available and where appropriate, intelligence-based data such as data on investigations by police and customs authorities and analyses of criminal activities. That risk assessment shall aim, inter alia, to identify the minimum number of inspections required, including physical checks on establishments, undertakings, brokers, dealers

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) No 660/2014 of the European Parliament and of the Council. (See end of Document for details)*

and shipments of waste or on the related recovery or disposal. An inspection plan shall include the following elements:

a the objectives and priorities of the inspections, including a description of how those priorities have been identified;

b the geographical area covered by that inspection plan;

c information on planned inspections, including on physical checks;

d the tasks assigned to each authority involved in inspections;

e arrangements for cooperation between authorities involved in inspections;

f information on the training of inspectors on matters relating to inspections; and

g information on the human, financial and other resources for the implementation of that inspection plan.

An inspection plan shall be reviewed at least every three years and, where appropriate, updated. That review shall evaluate to which extent the objectives and other elements of that inspection plan have been implemented.;

(c) paragraph 3 is replaced by the following:

3. Inspections of shipments may take place in particular:

a at the point of origin, carried out with the producer, holder or notifier;

b at the point of destination, including interim and non-interim recovery or disposal, carried out with the consignee or the facility;

c at the frontiers of the Union; and/or

d during the shipment within the Union.;

(d) paragraph 4 is replaced by the following:

4. Inspections of shipments shall include the verification of documents, the confirmation of identity and, where appropriate, physical checking of the waste.;

(e) the following paragraphs are inserted:

4a. In order to ascertain that a substance or object being carried by road, rail, air, sea or inland waterway is not waste, the authorities involved in inspections may, without prejudice to Directive 2012/19/EU of the European Parliament and of the Council[(9)], require the natural or legal person who is in possession of the substance or object concerned, or who arranges the carriage thereof, to submit documentary evidence:

a as to the origin and destination of the substance or object concerned; and

b that it is not waste, including, where appropriate, evidence of functionality.

For the purpose of the first subparagraph, the protection of the substance or object concerned against damage during transportation, loading and unloading, such as adequate packaging and appropriate stacking, shall also be ascertained.

4b The authorities involved in inspections may conclude that the substance or object concerned is waste where:

— the evidence referred to in paragraph 4a or required under other Union legislation to ascertain that a substance or object is not waste, has not been submitted within the period specified by them, or

— they consider the evidence and information available to them to be insufficient to reach a conclusion, or they consider the protection provided against damage referred to in the second subparagraph of paragraph 4a to be insufficient.

In such circumstances, the carriage of the substance or object concerned or the shipment of waste concerned shall be considered as an illegal shipment. Consequently, it shall be dealt with in accordance with Articles 24 and 25 and the authorities involved in inspections shall, without delay, inform the competent authority of the country where the inspection concerned took place accordingly.

4c In order to ascertain whether a shipment of waste complies with this Regulation, the authorities involved in inspections may require the notifier, the person who arranges the shipment, the holder, the carrier, the consignee and the facility that receives the waste to submit relevant documentary evidence to them within a period specified by them.

In order to ascertain whether a shipment of waste falling under the general information requirements of Article 18 is destined for recovery operations which are in accordance with Article 49, the authorities involved in inspections may require the person who arranges the shipment to submit relevant documentary evidence, provided by the interim and non-interim recovery facility and, if necessary, approved by the competent authority of destination.

4d Where the evidence referred to in paragraph 4c has not been submitted to the authorities involved in inspections within the period specified by them, or they consider the evidence and information available to them to be insufficient to reach a conclusion, the shipment concerned shall be considered as an illegal shipment. Consequently, it shall be dealt with in accordance with Articles 24 and 25 and the authorities involved in inspections shall, without delay, inform the competent authority of the country where the inspection concerned took place accordingly.

4e By 18 July 2015, the Commission shall adopt, by means of implementing acts, a preliminary correlation table between the codes of the combined nomenclature, provided for in Council Regulation (EEC) No 2658/87[(10)] and the entries of waste listed in Annexes III, IIIA, IIIB, IV, IVA and V to this Regulation. The Commission shall maintain that correlation table up-to–date in order to reflect changes to that nomenclature and to the entries listed in those Annexes, as well as to include any new waste-related codes of the Harmonised System Nomenclature that the World Customs Organisation may adopt.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59a(2).;