Commission Regulation (EU) No 715/2013 of 25 July 2013 establishing criteria determining when copper scrap ceases to be waste under Directive 2008/98/EC of the European Parliament and of the Council

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THE EUROPEAN COMMISSION,

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

Having regard to Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives[(1)] and in particular Article 6(2) thereof,

Whereas:

(1) It results from an evaluation of several waste streams that recycling markets for copper scrap would benefit from the development of specific criteria determining when copper scrap obtained from waste ceases to be waste. Those criteria should ensure a high level of environmental protection. They should be without prejudice to the classification of recovered copper scrap as waste by third countries.

(2) Reports of the Joint Research Centre of the European Commission have shown that a market and demand exist for copper scrap to be used as feedstock in the non-ferrous metal producing industry. Copper scrap should therefore be sufficiently pure and meet the relevant standards or specifications required by the non-ferrous metal producing industry.

(3) The criteria determining when copper scrap ceases to be waste should ensure that copper scrap resulting from a recovery operation meets the technical requirements of the non-ferrous metal producing industry, comply with existing legislation and standards applicable to products and do not lead to overall adverse environmental or human health impacts. Reports of the Joint Research Centre of the European Commission have shown that the proposed criteria on the waste used as input in the recovery operation, on the treatment processes and techniques, as well as on the copper scrap resulting from the recovery operation fulfil those objectives as they should result in the generation of copper scrap devoid of hazardous properties and sufficiently free of metals other than copper and non-metallic compounds.

(4) In order to ensure compliance with the criteria, it is appropriate to provide that information on copper scrap which has ceased to be waste is issued and that a management system is implemented.

(5) A review of the criteria may prove necessary if, on the basis of a monitoring for the development of market conditions for copper scrap, adverse effects on recycling

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markets for copper scrap are noted, in particular with regard to the availability of, and access to, such scrap.

(6) In order to allow operators to adapt to the criteria determining when copper scrap ceases to be waste, it is appropriate to provide for a reasonable period to elapse before this Regulation applies.

(7) The Committee established by Article 39 of Directive 2008/98/EC has not delivered an opinion on the measures provided for in this Regulation and the Commission therefore submitted a proposal relating to the measures to be taken to the Council and forwarded it to the European Parliament. The Council did not act within the 2-month period provided for by Article 5a of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(2)], and the Commission therefore submitted the proposal to the European Parliament without delay. The European Parliament did not oppose the measure within 4 months from the abovementioned forwarding,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes criteria determining when copper scrap ceases to be waste.

Article 2

Definitions

For the purposes of this Regulation, the definitions set out in Directive 2008/98/EC shall apply.

In addition, the following definitions shall apply:

(1) ‘copper scrap’ means scrap metal which consists mainly of copper and copper alloys;

(2) ‘holder’ means the natural or legal person who is in possession of copper scrap;

(3) ‘producer’ means the holder who transfers copper scrap to another holder for the first time as copper scrap which has ceased to be waste;

(4) ‘importer’ means any natural or legal person established within the Union who introduces copper scrap which has ceased to be waste into the customs territory of the Union;

(5) ‘qualified staff’ means staff which is qualified by experience or training to monitor and assess the properties of copper scrap;

(6) ‘visual inspection’ means inspection of copper scrap covering all parts of a consignment and using human senses or any non-specialised equipment;

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(7) 'consignment' means a batch of copper scrap which is intended for delivery from a producer to another holder and may be contained in either one or several transport units, such as containers.

Article 3

Criteria for copper scrap

Copper scrap shall cease to be waste where, upon transfer from the producer to another holder, all of the following conditions are fulfilled:

(1) the copper scrap resulting from the recovery operation complies with the criteria set out in Section 1 of Annex I;

(2) the waste used as input for the recovery operation complies with the criteria set out in Section 2 of Annex I;

(3) the waste used as input for the recovery operation has been treated in accordance with the criteria set out in Section 3 of Annex I;

(4) the producer has satisfied the requirements set out in Articles 4 and 5.

Article 4

Statement of conformity

1 The producer or the importer shall issue, for each consignment of copper scrap, a statement of conformity conforming to the model set out in Annex II.

2 The producer or the importer shall transmit the statement of conformity to the next holder of the copper scrap consignment. The producer or the importer shall retain a copy of the statement of conformity for at least 1 year after its date of issue and shall make it available to competent authorities upon request.

3 The statement of conformity may be in electronic form.

Article 5

Management system

1 The producer shall implement a management system suitable to demonstrate compliance with the criteria referred to in Article 3.

2 The management system shall include a set of documented procedures concerning each of the following aspects:

a monitoring of the quality of copper scrap resulting from the recovery operation as set out in Section 1 of Annex I (including sampling and analysis);

b effectiveness of radiation monitoring as set out in Section 1.5 of Annex I;

c acceptance control of waste used as input for the recovery operation as set out in Section 2 of Annex I;

d monitoring of the treatment processes and techniques described in Section 3.3 of Annex I;

e feedback from customers concerning compliance with copper scrap quality;

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f record keeping of the results of monitoring conducted under points (a) to (d);

g review and improvement of the management system;

h training of staff.

3 The management system shall also prescribe the specific monitoring requirements set out in Annex I for each criterion.

4 Where any of the treatments referred to in Section 3.3 of Annex I is carried out by a prior holder, the producer shall ensure that the supplier implements a management system which complies with the requirements of this Article.

5 A conformity assessment body, as defined in Regulation (EC) No 765/2008 of the European Parliament and of the Council[3], which has obtained accreditation in accordance with that Regulation, or an environmental verifier, as defined in Art 2 (20) (b) of Regulation (EC) No 1221/2009 of the European Parliament and of the Council[4], which is accredited or licensed in accordance with that Regulation, shall verify that the management system complies with the requirements of this Article. The verification shall be carried out every 3 years.

Only verifiers with the following scope of accreditation or licence based on the NACE Codes as specified in Regulation (EC) No 1893/2006 of the European Parliament and of the Council[5] shall be regarded as having sufficient specific experience to perform the verification mentioned in this Regulation:

a * NACE Code 38 (Waste collection, treatment and disposal activities; material recovery); or

b * NACE Code 24 (Manufacture of basic metals) especially including the sub-code 24.44 (Copper production).

6 The importer shall require his suppliers to implement a management system which complies with the requirements of paragraphs 1, 2 and 3 and has been verified by an independent external verifier.

The management system of the supplier shall be certified by a conformity assessment body which is accredited by one of the following:

a an accreditation body successfully peer evaluated for this activity by the body recognised in Article 14 of Regulation (EC) No 765/2008;

b an environmental verifier which is accredited or licensed by an accreditation or licensing body according to Regulation (EC) No 1221/2009 which is also subject to peer evaluation according to Article 31 of that Regulation.

Verifiers who want to operate in third countries must obtain a specific accreditation or licence, in accordance with the specifications laid down in Regulation (EC) No 765/2008 or Regulation (EC) No 1221/2009 together with Commission Decision 2011/832/EU[6].

7 The producer shall give competent authorities access to the management system upon request.

Article 6

Entry into force

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

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It shall apply from 1 January 2014.

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

Done at Brussels, 25 July 2013.

For the Commission

The President

José Manuel BARROSO