Commission Regulation (EU) No 1179/2012 of 10 December 2012 establishing criteria determining when glass cullet 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 glass cullet would benefit from the development of specific criteria determining when glass cullet 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 glass cullet 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 glass cullet to be used as feedstock in the glass producing industry. Glass cullet should therefore be sufficiently pure and meet the relevant standards or specifications required by the glass producing industry.

(3) The criteria determining when glass cullet cease to be waste should ensure that cullet resulting from a recovery operation meet the technical requirements of the glass 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 glass cullet resulting from the recovery operation fulfil those objectives as they should result in the generation of cullet devoid of hazardous properties and sufficiently free of non-glass components.

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

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

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) No 1179/2012. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(6) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 39 of Directive 2008/98/EC,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes criteria determining when glass cullet destined for the production of glass substances or objects in re-melting processes 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) ‘glass cullet’ means cullet generated from the recovery of waste glass;

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

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

(4) ‘importer’ means any natural or legal person established within the Union who introduces glass cullet 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 glass cullet;

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

(7) ‘consignment’ means a batch of glass cullet 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 glass cullet

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

(1) the cullet 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;

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(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;

(5) the glass cullet is destined for the production of glass substances or objects in re-melting processes.

Article 4

Statement of conformity

1 The producer or the importer shall issue, for each consignment of glass cullet, 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 glass cullet consignment. The producer or the importer shall retain a copy of the statement of conformity for at least one 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 glass cullet resulting from the recovery operation as set out in Section 1 of Annex I (including sampling and analysis);

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

c monitoring of the treatment processes and techniques described in Section 3 of Annex I;

d feedback from customers concerning compliance with glass cullet quality;

e record keeping of the results of monitoring conducted under points (a) to (c);

f review and improvement of the management system;

g training of staff.

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

4 A conformity assessment body, as defined in Regulation (EC) No 765/2008 of the European Parliament and of the Council[(2)], which has obtained accreditation in accordance with that Regulation, or an environmental verifier, as defined in Article 2(20)(b) of Regulation (EC) No 1221/2009 of the European Parliament and of the Council[(3)], 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 three years. Only verifiers with the following scopes 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[(4)]

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are regarded to have sufficient specific experience to perform the verification mentioned in this Regulation:

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

— * NACE Code 23.1 (Manufacture of glass and glass products).

5 The importer shall require his suppliers to implement a management system which complies with the requirements of paragraphs 1, 2 and 3 of this Article 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 an accreditation body successfully peer evaluated for this activity by the body recognised in Article 14 of Regulation (EC) No 765/2008; or by 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, respectively.

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[(5)].

6 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*.

It shall apply from 11 June 2013.

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

Done at Brussels, 10 December 2012.

For the Commission

The President

José Manuel BARROSO

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ANNEX I

CRITERIA FOR GLASS CULLET

Criteria	**Self-monitoring requirements**
Section 1.Quality of glass cullet resulting from the recovery operation	
1.1. The glass cullet shall comply with a customer specification, an industry specification or a standard for direct use in the production of glass substances or objects by re-melting in glass manufacturing facilities.	Qualified staff shall verify that each consignment complies with the appropriate specification.
1.2. The content of the following non-glass components shall be: — Ferrous metals: ≤ 50 ppm; — Non-ferrous metals: ≤ 60 ppm; — Non-metal non-glass inorganics: < 100 ppm for glass cullet size > 1mm; < 1 500 ppm for glass cullet size ≤ 1 mm; — Organics: ≤ 2 000 ppm. Examples of non-metal non-glass inorganics are: ceramics, stones, porcelain, pyro-ceramics. Examples of organics are: paper, rubber, plastic, fabrics, wood.	Qualified staff shall carry out a visual inspection of each consignment. At appropriate intervals and subject to review if significant changes in the operating process are made, representative samples of glass cullet shall be analysed gravimetrically to measure the total non-glass components. The non-glass component content shall be analysed by weighing after mechanical or manual (as appropriate) separation of materials under careful visual inspection. The appropriate frequencies of monitoring by sampling shall be established taking into account the following factors: — The expected pattern of variability (for example as shown by historical results). — The inherent risk of variability in the quality of waste glass used as input for the recovery operation and any subsequent processing. Pre-consumer waste glass with a highly predictable composition needs likely less frequent monitoring. Waste glass from multi-material collection may need more frequent monitoring. — The inherent precision of the monitoring method. — The proximity of results of the non-glass component content to the limits indicated above. The process of determining monitoring frequencies should be documented as part of the management system and should be available for auditing.

a OJ L 226, 6.9.2000, p. 3.

b OJ L 229, 30.4.2004, p. 1.