Council Regulation (EU) No 333/2011 of 31 March 2011 establishing criteria determining when certain types of scrap metal cease to be waste under Directive 2008/98/EC of the European Parliament and of the Council

COUNCIL REGULATION (EU) No 333/2011

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establishing criteria determining when certain types of scrap metal cease to be waste under Directive 2008/98/EC of the European Parliament and of the Council

THE COUNCIL OF THE EUROPEAN UNION,

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,

Having regard to the proposal from the European Commission,

After submission of the proposed measures to the European Parliament,

Whereas:

(1) It results from an evaluation of several waste streams that recycling markets for scrap metal would benefit from the development of specific criteria determining when scrap metal 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 scrap metal 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 iron, steel and aluminium scrap to be used as feedstock in steel works, foundries, aluminium refiners and remelters for the production of metals. Iron, steel and aluminium scrap should therefore be sufficiently pure and meet the relevant scrap standards or specifications required by the metal producing industry.

(3) The criteria determining when iron, steel and aluminium scrap cease to be waste should ensure that iron, steel and aluminium scrap resulting from a recovery operation meet the technical requirements of the 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 scrap metal resulting from the recovery operation, fulfil those objectives since they should result in the production of iron, steel and aluminium scrap devoid of hazardous properties and sufficiently free of non-metallic compounds.

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

(5) A review of the criteria may prove necessary if, on the basis of a monitoring of the development of market conditions for iron and steel scrap and aluminium scrap, adverse effects on recycling markets for iron and steel scrap and aluminium 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 scrap metal 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(1) of Directive 2008/98/EC has not delivered an opinion on the measures provided for in this Regulation and the Commission therefore submitted to the Council a proposal relating to the measures and forwarded it to the European Parliament.

(8) The European Parliament has not opposed the proposed measures,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes criteria determining when iron, steel and aluminium scrap, including aluminium alloy scrap, cease 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:

(a) ‘iron and steel scrap’ means scrap metal which consists mainly of iron and steel;

(b) ‘aluminium scrap’ means scrap metal which consists mainly of aluminium and aluminium alloy;

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

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

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

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(f) 'qualified staff' means staff which is qualified by experience or training to monitor and assess the properties of scrap metal;

(g) 'visual inspection' means inspection of scrap metal covering all parts of a consignment and using human senses or any non-specialised equipment;

(h) 'consignment' means a batch of scrap metal 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 iron and steel scrap

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

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

(b) 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;

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

(d) the producer has satisfied the requirements set out in Articles 5 and 6.

Article 4

Criteria for aluminium scrap

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

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

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

(c) the aluminium scrap resulting from the recovery operation complies with the criteria set out in Section 1 of Annex II;

(d) the producer has satisfied the requirements set out in Articles 5 and 6.

Article 5

Statement of conformity

1 The producer or the importer shall issue, for each consignment of scrap metal, a statement of conformity in accordance with the model set out in Annex III.

2 The producer or the importer shall transmit the statement of conformity to the next holder of the scrap metal consignment. The producer or the importer shall retain a copy of the

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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 6

Quality management

1 The producer shall implement a quality management system suitable to demonstrate compliance with the criteria referred to in Articles 3 and 4, respectively.

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

a acceptance control of waste used as input for the recovery operation as set out in Section 2 of Annexes I and II;

b monitoring of the treatment processes and techniques described in Section 3.3 of Annexes I and II;

c monitoring of the quality of scrap metal resulting from the recovery operation as set out in Section 1 of Annexes I and II (including sampling and analysis);

d effectiveness of the radiation monitoring as set out in Section 1.5 of Annexes I and II, respectively;

e feedback from customers concerning compliance with scrap metal quality;

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

g review and improvement of the quality management system;

h training of staff.

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

4 Where any of the treatments referred to in Section 3.3 of Annex I or Section 3.3 of Annex II are carried out by a prior holder, the producer shall ensure that the supplier implement a quality 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 of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products[(2)], which has obtained accreditation in accordance with that Regulation, or any other environmental verifier as defined in Article 2(20)(b) of Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)[(3)] shall verify that the quality management system complies with the requirements of this Article. The verification should be carried out every 3 years.

6 The importer shall require his suppliers to implement a quality 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.

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

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Article 7

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 9 October 2011.

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

Done at Brussels, 31 March 2011.

For the Council

The President

VÖLNER P.