

## **REACH according to Chapter 3 of the draft final document "end-of-waste criteria for iron and steel scrap"**

First of all, we would like to thank Mr. Versmann for his efforts to clarify the REACH tasks regarding the product status of iron and steel scrap. In particular, the discussions in the meeting at 14<sup>th</sup> October 2009 in Brussels forwarded a fair exchange of the various views on this regulation. However, this means that in the case of a product status of iron and steel the pre-registration of the main constituents of all types of iron and steel scrap is sufficient to avoid any further REACH obligations.

### **Iron and Steel Scrap under REACH**

Unfortunately, the stakeholders are still very much concerned about the following problems under the REACH regulation:

The REACH regulation provides for exemptions from registration, evaluation and downstream user provisions for recovered substances, see Article 2(7)(d). Thus, the product status of iron and steel scrap could benefit also from a wide interpretation of Article 2(7)(d). This means that the sameness of a substance or of a preparation/mixture can be approved by referring to any available information of primary products in question. Hence, the Competent Authorities should coincide with reference to the substance status of iron and steel scrap that there is no need to characterise the materials by means of chemical and physical analysis. Thus, the sameness of all iron and steel scrap is sufficiently proofed by reference to information on the substance composition, which is available from primary steel, which includes all high and low alloyed steels.

Since iron and steel scrap does not consist of any substances of concern in case of the product status, see Article 6 Waste Framework Directive 2008/98/EC, and see its listings in the European Waste Catalogue, the Competent Authorities should agree that there is no need to create Safety Data Sheets according to Article 31 as well as there is no need to communicate information down the supply chain according to Article 32 of REACH. Scrap processors and scrap dealers might supply the various types of iron and steel scrap by general and standardized information on their composition, only.

Meanwhile it is shown within SIEF experiences that iron and steel can be regarded throughout as a substance. Therefore, it is suggested that iron and steel scrap might benefit from an official substance status, which should be recommended by the Competent Authorities. Thus, iron and steel scrap could benefit throughout of the 80 % rule. This refers explicitly to waste paper, which benefits from the substance status, see 5<sup>th</sup> CA-paper. Moreover, Competent Authorities should state also, that registration as mixture composed of two or more substances is not required for the components of iron and steel scrap.

It should be stated clearly that external material, i.e. coatings and surface contaminations of the iron and steel scrap, are not part of the REACH regulations. Hence, there is no need to characterize these surface materials which are regarded as waste components, only. Therefore, the Competent Authorities should agree that alien matter is excluded from any REACH obligation, see Annex V.

Thus, the Competent Authorities should state clearly, if in the presence in amounts larger than 0.1 % w/w and succeeding 1 ton annually, respectively, of cmr-substances, i.e. Pb, in iron and steel scrap Safety Data Sheet as well as Exposure Scenarios have to be worked out by the scrap processors and the scrap dealers. This would contradict all efforts to minimize bureaucratic burdens in the case of the product status of iron and steel scrap. In addition, this contradicts all listings of iron and steel scrap, see European Waste Catalogue, as non-dangerous.

### **Limitations under REACH**

The stakeholders ask the JRC to realize that REACH regulations might limit also the import of iron and steel scrap into the European markets if the product status is achieved. Thus, import of scrap material can be carried out only, if an Only Representative is employed, which will cause additional costs and bureaucratic burdens. Of course, in this case, a non-EU resident importer would have to face the REACH obligations. Furthermore, it might be difficult to proof the sameness of iron and steel scrap, if importers do not benefit from re-imported substances, see Article 2(7)(c). Hence, it might even be possible, that a full registration will be required to import scrap material under the product status. The JRC should realize that in case of import of scrap material chemical and physical analysis is to be carried out and an exposure scenario is to be given.

A very special situation under REACH might arise for the scrap processors and the scrap dealers in cases of no registration of the primary material, which is valid for all foundry material which benefits from the status of article (product). Hence, neither the reference to Safety Data Sheet of the primary material nor the proof of sameness would be possible for scrap processors or scrap dealers. Of course, in this case, scrap processors and scrap dealers would have to face the burden working out Safety Data Sheet as well as Exposure Scenarios. The JRC should state clearly, in this case, whether scrap processors and scrap dealers might even suffer from the burden of a full registration if the reference to Article 2(7)(d) is no longer valid and hence they are regarded as manufacturer.

### **Conclusion**

Please note, that the EU benefits ecologically as well as economically very much from the recovery of metal from iron and steel scrap. As stated by the JRC, also the stakeholders agree that the product status of iron and steel scrap will help to provide the EU with valuable resources, but the product status should be reached by the stakeholders in a reasonable way. Hence, bureaucratic burden, especially given by the current interpretations of the REACH regulation, see also the 5th CA-paper, should be minimized. In particular, the JRC, the DG Environment, the DG Enterprise as well as the Competent Authorities should note that all scrap material is treated in a thermal process which oxidizes all organic impurities and absorbs inorganic alien matter in the slag.

Stakeholders ask the Competent Authorities to review the REACH status of iron and steel scrap. Hitherto, by the experiences of pre-registrations the parties involved, are badly affected from the REACH obligations. Thus, the REACH regulation is still regarded as the main hindrance to select the product status. By both, the EU-Waste Framework Directive as well as by the REACH regulative, a solution should be found which will give iron and steel scrap a similar status as waste paper, see cellulose pulp in Annex IV, has already received. It might forward the discussion



on the status of iron and steel scrap under REACH, if the ore exemption, listed in Annex V, would include iron and steel scrap.

However, please note, that the current REACH problem has to be clarified formally binding, explicitly in terms of simplification and minimization of administrative barriers before the end of waste criteria become valid. A legal certainty of the interpretation on the REACH regulation, regarding iron and steel scrap, could be achieved if a CA-paper or an official note of the EU Commission was added to their final statement on the end of waste criteria.

This means, as long as there is no simple and straight forward solution given for iron and steel scrap under REACH that we recognize the end of waste status of iron and steel scrap will end by treatment in the steel mill or foundry. Hence, this view will be communicated to our members as well as, to the public.

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Signed for the bvse: Eric Rehbock and Dr. Thomas Probst

Signed for the BDSV: Rolf Willeke and Dr. Rainer Cosson