Commission Regulation (EU) No 1357/2014 of 18 December 2014 replacing Annex III to Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives (Text with EEA relevance)

COMMISSION REGULATION (EU) No 1357/2014

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(Text with EEA relevance)

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 on waste and repealing certain Directives[(1)], and in particular Article 38(2) thereof,

Whereas:

(1) Annex III to Directive 2008/98/EC lists properties of waste which render it hazardous.

(2) Directive 2008/98/EC states that the classification of waste as hazardous should be based, inter alia, on the Union legislation on chemicals, in particular concerning the classification of preparations as hazardous, including concentration limit values used for that purpose. Furthermore, it is necessary to maintain the system by which waste and hazardous waste have been classified in accordance with the list of the types of waste as last established by Commission Decision 2000/532/EC[(2)], in order to encourage a harmonised classification of waste and ensure the harmonised determination of hazardous waste within the Union.

(3) Annex III to Directive 2008/98/EC provides that the attribution of the hazardous properties H 4 (‘irritant’), H 5 (‘harmful’), H 6 (‘toxic’ and ‘very toxic’), H 7 (‘carcinogenic’), H 8 (‘corrosive’), H 10 (‘toxic for reproduction’), H 11 (‘mutagenic’) and H 14 (‘ecotoxic’) is to be made on the basis of the criteria laid down by Annex VI to Council Directive 67/548/EEC[(3)].

(4) Annex III to Directive 2008/98/EC provides that, where relevant, the limit values listed in Annex II and III to Directive 1999/45/EC of the European Parliament and of the Council[(4)] shall apply.

(5) Directive 67/548/EEC and Directive 1999/45/EC are to be repealed with effect of 1 June 2015 and replaced by Regulation (EC) No 1272/2008[(5)], which reflects technical and scientific progress. By way of derogation, both directives may apply to some mixtures until 1 June 2017, in case they were classified, labelled and packaged in accordance with Directive 1999/45/EC and already placed on the market before 1 June 2015.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) No 1357/2014. 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) It is necessary to amend Annex III to Directive 2008/98/EC to adapt the definitions of the hazardous properties accordingly aligning them with Regulation (EC) No 1272/2008, where appropriate and replacing the references to Directive 67/548/EEC and to Directive 1999/45/EC by references to Regulation (EC) No 1272/2008.

(7) In order to ensure sufficient completeness and representativeness also as regards the information on possible impacts of an alignment of HP 14 'ecotoxic' with Regulation (EC) No 1272/2008, an additional study is needed.

(8) The hazardous properties H 1 to H 15 defined in Annex III to Directive 2008/98/EC should be renamed HP 1 to HP 15 in order to avoid potential confusion with the hazard statement codes defined in Regulation (EC) No 1272/2008.

(9) The names of the former hazardous properties H 5 ('harmful') and H 6 ('toxic') should be amended to align them with the changes of the legislation on chemicals and, in particular, the new hazard class and category codes defined in Regulation (EC) No 1272/2008.

(10) New names should be introduced for the former hazardous properties H 12 and H 15 in order to ensure consistency with the naming of the other hazardous properties.

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

HAS ADOPTED THIS REGULATION:

Article 1

Annex III to Directive 2008/98/EC is replaced by the text set out in the Annex to this Regulation.

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in all Member States. It shall apply from 1 June 2015.

Done at Brussels, 18 December 2014.

For the Commission

The President

Jean-Claude JUNCKER

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ANNEX

ANNEX III

PROPERTIES OF WASTE WHICH RENDER IT HAZARDOUS

"Explosive:" waste which is capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings. Pyrotechnic waste, explosive organic peroxide waste and explosive self-reactive waste is included.

When a waste contains one or more substances classified by one of the hazard class and category codes and hazard statement codes shown in Table 1, the waste shall be assessed for HP 1, where appropriate and proportionate, according to test methods. If the presence of a substance, a mixture or an article indicates that the waste is explosive, it shall be classified as hazardous by HP 1.

Table 1: Hazard Class and Category Code(s) and Hazard statement Code(s) for waste constituents for the classification of wastes as hazardous by HP 1:

Hazard Class and Category Code(s)	**Hazard statement Code(s)**
Unst. Expl.	H 200
Expl. 1.1	H 201
Expl. 1.2	H 202
Expl. 1.3	H 203
Expl. 1.4	H 204
Self-react. A	H 240
Org. Perox. A	
Self-react. B	H 241
Org. Perox. B	

"Oxidising:" waste which may, generally by providing oxygen, cause or contribute to the combustion of other materials.

When a waste contains one or more substances classified by one of the hazard class and category codes and hazard statement codes shown in Table 2, the waste shall be assessed for HP 2, where appropriate and proportionate, according to test methods. If the presence of a substance indicates that the waste is oxidising, it shall be classified as hazardous by HP 2.

Table 2: Hazard Class and Category Code(s) and Hazard statement Code(s) for the classification of wastes as hazardous by HP 2:

Hazard Class and Category Code(s)	**Hazard statement Code(s)**

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Ox. Gas 1	H 270
Ox. Liq. 1	H 271
Ox. Sol. 1	
Ox. Liq. 2, Ox. Liq. 3	H 272
Ox. Sol. 2, Ox. Sol. 3	

"Flammable:"

— flammable liquid waste	:	liquid waste having a flash point below 60 °C or waste gas oil, diesel and light heating oils having a flash point > 55 °C and ≤ 75 °C;
— flammable pyrophoric liquid and solid waste	:	solid or liquid waste which, even in small quantities, is liable to ignite within five minutes after coming into contact with air;
— flammable solid waste	:	solid waste which is readily combustible or may cause or contribute to fire through friction;
— flammable gaseous waste	:	gaseous waste which is flammable in air at 20 °C and a standard pressure of 101.3 kPa;
— water reactive waste	:	waste which, in contact with water, emits flammable gases in dangerous quantities;
— other flammable waste	:	flammable aerosols, flammable self-heating waste, flammable organic peroxides and flammable self-reactive waste.

When a waste contains one or more substances classified by one of the following hazard class and category codes and hazard statement codes shown in Table 3, the waste shall be assessed, where appropriate and proportionate, according to test methods. If the presence of a substance indicates that the waste is flammable, it shall be classified as hazardous by HP 3.

Table 3: Hazard Class and Category Code(s) and Hazard statement Code(s) for waste constituents for the classification of wastes as hazardous by HP 3:

Hazard Class and Category Code(s)	**Hazard statement Code(s)**
Flam. Gas 1	H220
Flam. Gas 2	H221
Aerosol 1	H222
Aerosol 2	H223
Flam. Liq. 1	H224
Flam. Liq.2	H225
Flam. Liq. 3	H226
Flam. Sol. 1	H228
Flam. Sol. 2	

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Self-react. CD	H242
Self-react. EF	
Org. Perox. CD	
Org. Perox. EF	
Pyr. Liq. 1	H250
Pyr. Sol. 1	
Self-heat.1	H251
Self-heat. 2	H252
Water-react. 1	H260
Water-react. 2 Water-react. 3	H261

"Irritant — skin irritation and eye damage:"

waste which on application can cause skin irritation or damage to the eye.

When a waste contains one or more substances in concentrations above the cut-off value, that are classified by one of the following hazard class and category codes and hazard statement codes and one or more of the following concentration limits is exceeded or equalled, the waste shall be classified as hazardous by HP 4.

The cut-off value for consideration in an assessment for Skin corr. 1A (H314), Skin irrit. 2 (H315), Eye dam. 1 (H318) and Eye irrit. 2 (H319) is 1 %.

If the sum of the concentrations of all substances classified as Skin corr. 1A (H314) exceeds or equals 1 %, the waste shall be classified as hazardous according to HP 4.

If the sum of the concentrations of all substances classified as H318 exceeds or equals 10 %, the waste shall be classified as hazardous according to HP 4.

If the sum of the concentrations of all substances classified H315 and H319 exceeds or equals 20 %, the waste shall be classified as hazardous according to HP 4.

Note that wastes containing substances classified as H314 (Skin corr.1A, 1B or 1C) in amounts greater than or equal to 5 % will be classified as hazardous by HP 8. HP 4 will not apply if the waste is classified as HP 8.

"Specific Target Organ Toxicity (STOT)/ Aspiration Toxicity:"

waste which can cause specific target organ toxicity either from a single or repeated exposure, or which cause acute toxic effects following aspiration.

When a waste contains one or more substances classified by one or more of the following hazard class and category codes and hazard statement codes shown in Table 4, and one or more of the concentration limits in Table 4 is exceeded or equalled, the waste shall be classified as hazardous according to HP 5. When substances classified as STOT are present in a waste, an individual substance has to be present at or above