Commission Regulation (EC) No 790/2009 of 10 August 2009 amending, for the purposes of its adaptation to technical and scientific progress, Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures (Text with EEA relevance)

COMMISSION REGULATION (EC) No 790/2009

of 10 August 2009

amending, for the purposes of its adaptation to technical and scientific progress, Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006[(1)], and in particular Article 53 thereof,

Whereas:

(1) Part 3 of Annex VI to Regulation (EC) No 1272/2008 contains two lists of harmonised classification and labelling of hazardous substances. Table 3.1 lists the harmonised classification and labelling of hazardous substances based on the criteria set out in Parts 2 to 5 of Annex I to Regulation (EC) No 1272/2008. Table 3.2 lists the harmonised classification and labelling of hazardous substances based on the criteria set out in Annex VI to Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances[(2)]. These two lists need to be amended to include updated classifications for substances already subject to harmonised classification and to include new harmonised classifications. In addition, it is necessary to delete entries for certain substances.

(2) It is necessary to amend Annex VI to Regulation (EC) No 1272/2008 in order to reflect the recently adopted amendments to Annex I to Directive 67/548/EEC introduced by Commission Directive 2008/58/EC of 21 August 2008 amending, for the purpose of its adaptation to technical progress, for the 30th time, Council Directive 67/548/EEC[(3)] and by Commission Directive 2009/2/EC of 15 January 2009 amending for the purpose of its adaptation to technical progress, for the 31st time, Council Directive 67/548/EEC[(4)]. Those measures constitute adaptations to technical and scientific progress within the meaning of Article 53 of Regulation (EC) No 1272/2008.

(3) Recital (53) of Regulation (EC) No 1272/2008 underlines the fact that full account should be taken of the work and experience accumulated under Directive 67/548/EEC,

including the classification and labelling of specific substances listed in Annex I to that Directive.

(4) The harmonised classifications set out in Part 3 of Annex VI to Regulation EC (No) 1272/2008, as amended by this Regulation, should not apply immediately, as a certain period of time will be necessary to allow operators to adapt the labelling and packaging of substances and mixtures to the new classifications. In addition a certain period of time will be necessary to allow operators to comply with registration obligations that are a consequence of the new harmonised classifications for substances classified as carcinogenic, mutagenic or toxic to reproduction, categories 1A and 1B (Table 3.1) and categories 1 and 2 (Table 3.2), or as very toxic to aquatic organisms which may cause long term effects in the aquatic environment, in particular with those set out in Article 23 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC[(5)].

(5) In the case of the substances in this Regulation which are updated or added to Part 3 of Annex VI to Regulation (EC) No 1272/2008 it is also appropriate that the obligation to classify substances in accordance with the harmonised classifications set out in Part 3 of Annex VI to Regulation EC (No) 1272/2008, as amended by this Regulation, should coincide with the date set out in Article 23 of Regulation (EC) No 1907/2006 and therefore this regulation should apply from 1 December 2010.

(6) Suppliers should have the possibility of applying the harmonised classifications set out in Part 3 of Annex VI to Regulation EC (No) 1272/2008, as amended by this Regulation, and of adapting the labelling and packaging accordingly before 1 December 2010, as provided for in Regulation (EC) No 1272/2008.

(7) The published version of Directive 2009/2/EC mistakenly contained entry No. 607-674-00-0 (branched C10-alkyl benzoates), therefore, it is appropriate to correct this clerical error and not include this entry in Annex VI to Regulation (EC) No 1272/2008.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Committee established under Article 133 of Regulation (EC) No 1907/2006,

HAS ADOPTED THIS REGULATION:

Article 1

Part 3 of Annex VI to Regulation (EC) No 1272/2008 is amended as follows:

(1) Table 3.1 is amended as follows:

(a) The entries corresponding to the entries set out in Annex I are replaced by the entries set out in that Annex;

(b) The entries set out in Annex II are inserted in accordance with the order of the entries set out in Table 3.1;

(c) The entries set out in Annex III are deleted from Table 3.1;

(2) Table 3.2 is amended as follows:

(a) The entries corresponding to the entries set out in Annex IV are replaced by the entries set out in that Annex;

(b) The entries set out in Annex V are inserted in accordance with the order of the entries set out in Table 3.2;

(c) The entries set out in Annex III are deleted from Table 3.2.

Article 2

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

2 Article 1 shall apply from 1 December 2010.

3 The harmonised classifications set out in Part 3 of Annex VI to Regulation EC (No) 1272/2008, as amended by this Regulation, may be applied before 1 December 2010.

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

Done at Brussels, 10 August 2009.

For the Commission

Stavros DIMAS

Member of the Commission

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 790/2009. (See end of Document for details)*

ANNEX I

Index No	International Chemical Identification	EC No	CAS No	Classification		Labelling			Specific Conc. Limits M-factors	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
001-002-00-4	aluminium lithium hydride	240-877-9	16853-85-3	Water-react. 1 Skin Corr. 1A	H260 H314	GHS02 GHS05 Dgr	H260 H314			
005-006-00-7	di-n-butyltin hydrogen borate	401-040-5	75113-37-0	Repr. 1B Muta. 2 STOT RE 1 Acute Tox. 4 * Acute Tox. 4 * Eye Dam. 1 Skin Sens. 1 Aquatic Acute 1 Aquatic Chronic 1	H360FD H341 H372** H312 H302 H318 H317 H400 H410	GHS05 GHS08 GHS07 GHS09 Dgr	H360FD H341 H372 H312 H302 H318 H317 H410			
006-007-00-5	salts of hydrogen cyanide with the exception of complex cyanides such as ferrocyanides,	—	—	Acute Tox. 2 * Acute Tox. 1 Acute Tox. 2 * Aquatic Acute 1	H330 H310 H300 H400 H410	GHS06 GHS09 Dgr	H330 H310 H300 H410	EUH032		A

	ferricyanides and mercuric oxycyanide and those specified elsewhere in this Annex			Aquatic Chronic 1						
006-011-00-7	carbaryl (ISO); 1-naphthyl methylcarbamate	200-555-0	63-25-2	Carc. 2 Acute Tox. 4 * Acute Tox. 4 * Aquatic Acute 1	H351 H332 H302 H400	GHS08 GHS07 GHS09 Wng	H351 H332 H302 H400		M=100	
006-015-00-9	diuron (ISO); 3-(3,4-dichlorophenyl)-1,1-dimethylurea	206-354-4	330-54-1	Carc. 2 Acute Tox. 4 * STOT RE 2 * Aquatic Acute 1 Aquatic Chronic 1	H351 H302 H373** H400 H410	GHS08 GHS07 GHS09 Wng	H351 H302 H373 H410		M=10	
006-045-00-2	methomyl (ISO); 1-(methylthio)ethylideneamino *N*-methylcarbamate	240-815-0	16752-77-5	Acute Tox. 2 * Aquatic Acute 1 Aquatic Chronic 1	H300 H400 H410	GHS06 GHS09 Dgr	H300 H410		M=100	
006-076-00-1	mancozeb (ISO); manganese ethylenebis(dithiocarbamate) (polymeric) complex with zinc salt		8018-01-7	Repr. 2 Skin Sens. 1 Aquatic Acute 1	H361d*** H317 H400	GHS08 GHS07 GHS09 Wng	H361d*** H317 H400		M=10	