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Delegations will find attached document D033542/02.

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EUROPEAN  
COMMISSION

Brussels, **XXX**  
D033542/2  
[...] (2014) **XXX** draft

**COMMISSION REGULATION (EU) No .../..**

**of XXX**

**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 .../..

of **XXX**

## 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)

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<sup>1</sup>, 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<sup>2</sup>, 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<sup>3</sup>.

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<sup>1</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

<sup>2</sup> Commission Decision 2000/532/EC of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste (OJ L 226, 6.9.2000, p. 3).

<sup>3</sup> 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 (OJ L 196, 16.8.1967, p. 1).

- (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<sup>4</sup> 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<sup>5</sup>, 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.
- (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.

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<sup>4</sup> Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations (OJ L 200, 30.7.1999, p. 1).

<sup>5</sup> 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 (OJ L 353, 31.12.2008, p. 1).

*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,

*For the Commission*  
*The President*