

2015 No. 1360

ENVIRONMENTAL PROTECTION

**The Hazardous Waste (Miscellaneous Amendments) Regulations
2015**

<i>Made</i> - - - -	<i>5th June 2015</i>
<i>Laid before Parliament</i>	<i>9th June 2015</i>
<i>Coming into force</i> - -	<i>1st July 2015</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by—

- (a) section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(a) (“the ECA 1972”); and
- (a) section 2 of, and Schedule 1 to, the Pollution Prevention and Control Act 1999 (“the PPCA 1999”)(b).

The Secretary of State has been designated for the purposes of section 2(2) of the ECA 1972 in relation to the environment(c) and batteries and accumulators(d).

These Regulations make provision for a purpose mentioned in section 2(2) of the ECA 1972 and it appears to the Secretary of State that it is expedient for the references to the European Union instrument mentioned in regulations 2(b), 3(4), 5(b), 7(3)(a)(i), 8(2) and 9 to be construed as references to that instrument as amended from time to time.

The Secretary of State has in accordance with section 2(4) of the PPCA 1999 consulted—

- (a) the Environment Agency;
- (b) such bodies or persons appearing to the Secretary of State to be representative of the interests of local government, industry, agriculture and small businesses respectively as the Secretary of State considers appropriate; and
- (c) such other bodies or persons as the Secretary of State considers appropriate.

(a) 1972 c.68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and was amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 and by S.I. 2007/1388. Under paragraph 5 of Schedule 3 to the Government of Wales Act 2006 (c.32), despite the transfer to the Welsh Ministers of functions in relation to implementing obligations under EU law in relation to devolved matters, the Secretary of State retains power to exercise such functions as regards Wales. Under section 57 of the Scotland Act 1998 (c.46), despite the transfer to the Scottish Ministers of functions in relation to implementing obligations under EU law in respect of devolved matters, the function of the Secretary of State in relation to implementing those obligations continues to be exercisable as regards Scotland.

(b) 1999 c.24; section 2 was amended by section 62(13) of the Water Act 2014 (c.21) and by S.I. 2013/755 (W.90). Schedule 1 was amended by S.I. 2005/925, 2011/1043 and 2012/2788.

(c) S.I. 2008/301.

(d) S.I. 2007/3471.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Hazardous Waste (Miscellaneous Amendments) Regulations 2015 and come into force on 1st July 2015.

(2) Regulations 7 to 9 and 11 apply to England only.

Amendment of the Environmental Protection Act 1990

2. In section 62A of the Environmental Protection Act 1990(a) (lists of waste displaying hazardous properties)—

(a) in each of subsections (1)(b) and (2)(b), for “Directive 2008/98/EC”(b), substitute “Directive 2008/98/EC”;

(b) in subsection (3), for “Commission Decision 2000/532/EC”(c), substitute “Commission Decision 2000/532/EC, as amended from time to time”.

Amendment of the Hazardous Waste (England and Wales) Regulations 2005

3.—(1) The Hazardous Waste (England and Wales) Regulations 2005(d) are amended as follows.

(2) For paragraph (1)(a) of regulation 2(e) (the Waste Directive and the meaning of waste), substitute—

“(a) “the Waste Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste;”.

(3) In paragraph (a) of regulation 3(f) (Annex III to the Waste Directive), omit “, as that Annex is set out in Schedule 3”.

(4) For paragraph (1) of regulation 4(g) (the List of Wastes), substitute—

“(1) In these Regulations, “the List of Wastes” means the list of wastes established by Commission Decision 2000/532/EC 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, as amended from time to time.”.

(5) In paragraph (2) of regulation 8 (specific waste to be treated as hazardous), for “Article 3 of the List of Wastes Decision”, substitute “Article 7(2) of the Waste Directive”.

(6) In paragraph (2) of regulation 9 (specific waste to be treated as non-hazardous), for “Article 3 of the List of Wastes Decision”, substitute “Article 7(3) of the Waste Directive”.

(7) Omit Schedule 3(h) (Annex III to the Waste Directive).

(8) For Schedule 8 (form of consignee’s return to producer or holder), substitute the text at Schedule 1 (new Schedule 8).

(a) 1990 c.43; section 62A was inserted by S.I. 2005/894 and amended by S.I. 2011/988.

(b) OJ No L 312, 22.11.2008, p.3, as last amended by Commission Regulation (EU) No 1357/2014 (OJ No L 365, 19.12.2014, p.89). The effect of section 20A of the Interpretation Act 1978 (c.30) is that the updated references to Directive 2008/98/EC are to the Directive as last amended by Commission Regulation (EU) No 1357/2014.

(c) OJ No L 226, 6.9.2000, p.3, as last amended by Commission Decision 2014/955/EU (OJ No L 370, 30.12.2014, p.44).

(d) S.I. 2005/894, amended by S.I. 2011/988; there are other amending instruments but none is relevant.

(e) Regulation 2 was substituted by S.I. 2011/988.

(f) Regulation 3 was substituted by S.I. 2011/988.

(g) Paragraph (1) of regulation 4 was amended by S.I. 2011/988.

(h) Schedule 3 was substituted by S.I. 2011/988.

Amendment of the Batteries and Accumulators (Placing on the Market) Regulations 2008

4. For the definition of “appliance” in paragraph (1) of regulation 2 of the Batteries and Accumulators (Placing on the Market) Regulations 2008(a) (interpretation), substitute—

““appliance” means any electrical or electronic equipment, as defined by Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE)(b), which is fully or partly powered by batteries or accumulators or is capable of being so;”.

Amendment of the Cremation (England and Wales) Regulations 2008

5. In regulation 29 of the Cremation (England and Wales) Regulations 2008(c) (incineration of body parts)—

(a) in paragraph (1), for “listed in code 18 01 02 or 18 01 03 of Schedule 1 to the List of Wastes Regulations”, substitute “falling within the description of code 18 01 02 or 18 01 03 in the List of Wastes”;

(b) in paragraph (2), for the definition of “List of Wastes Regulations”, substitute—

““List of Wastes” means the list of wastes established by Commission Decision 2000/532/EC 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, as amended from time to time;”.

Amendment of the Waste Batteries and Accumulators Regulations 2009

6. For the definition of “appliance” in paragraph (1) of regulation 2 of the Waste Batteries and Accumulators Regulations 2009(d) (interpretation), substitute—

““appliance” means any electrical or electronic equipment, as defined by Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE), which is fully or partly powered by batteries or is capable of being so;”.

Amendment of the Environmental Permitting (England and Wales) Regulations 2010

7.—(1) The Environmental Permitting (England and Wales) Regulations 2010(e) are amended as follows.

(2) In regulation 3 (interpretation: Directives)—

(a) for the definition of “the Waste Framework Directive”(f), substitute—

““the Waste Framework Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste;”;

(b) for the definition of “the WEEE Directive”, substitute—

““the WEEE Directive” means Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE).”.

(a) S.I. 2008/2164, to which there are amendments not relevant to these Regulations.

(b) OJ No L 197, 24.7.2012, p.38.

(c) S.I. 2008/2841, to which there are amendments not relevant to these Regulations.

(d) S.I. 2009/890, to which there are amendments not relevant to these Regulations.

(e) S.I. 2010/675, amended by S.I. 2011/988; there are other amending instruments but none is relevant.

(f) The definition of “the Waste Framework Directive” in regulation 3 was substituted by S.I. 2011/988.

(3) In Part 1 of Schedule 3 (exempt facilities: descriptions and conditions)—

(a) in paragraph 1 of chapter 1—

(i) in sub-paragraph (1), at the appropriate place insert—

““List of Wastes” means the list of wastes established by Commission Decision 2000/532/EC 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, as amended from time to time;”;

(ii) for sub-paragraph (2), substitute—

“(2) In this Part, a six digit code used to refer to a waste is a reference to the waste specified by the six digit code in the List of Wastes except insofar as the waste in this Part in relation to such a code does not include some of the types of waste specified by the code in the List”;

(b) in section 2 of chapter 3—

(i) in paragraph 1—

(aa) in sub-paragraph (3)(e), for “dangerous substance”, substitute “hazardous substance”;

(bb) for sub-paragraph (5), substitute—

“(5) In this paragraph, “hazardous substance” means a substance classified as hazardous as a consequence of fulfilling the criteria laid down in Parts 2 to 5 of Annex I to Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures(a).”;

(ii) in the second column of the row beginning “160504*” in the table at sub-paragraph (2) of paragraph 15, for “dangerous substances”, substitute “hazardous substances”;

(c) in section 2 of chapter 5, in the second column of the row beginning “150202*” in the table at sub-paragraph (2) of paragraph 1, for “dangerous substances”, substitute “hazardous substances”.

(4) In Schedule 12 (waste electrical and electronic equipment)—

(a) in sub-paragraph (1) of paragraph 2, for “Article 3(b)”, substitute “Article 3(1)(e)”;

(b) in paragraph 3—

(i) in sub-paragraph (1), for “Article 6(1) first paragraph and Article 6(3) and (4)”, substitute “Articles 8(1) to (3) and 9(3)”;

(ii) for sub-paragraph (2), substitute—

“(2) But when interpreting the WEEE Directive for the purposes of this paragraph, ignore the following words in Article 9(3)—

(a) “or the registration referred to in paragraphs 1 and 2”; and

(b) “and for the achievement of the recovery targets set out in Article 11”.

Amendment of the Waste (England and Wales) Regulations 2011

8.—(1) The Waste (England and Wales) Regulations 2011(b) are amended as follows.

(2) In paragraph (1) of regulation 3(c) (interpretation), at the appropriate place insert—

““the List of Wastes” means the list of wastes established by Commission Decision 2000/532/EC replacing Decision 94/3/EC establishing a list of wastes pursuant to

(a) OJ No L 353, 31.12.2008, p.1, as last amended by Commission Regulation (EU) No 1297/2014 (OJ No L 350, 6.12.2014, p.1).

(b) S.I. 2011/988; relevant amending instruments are S.I. 2013/755 and 2014/656.

(c) Regulation 3 was amended by S.I. 2013/755.

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, as amended from time to time;”.

(3) In paragraph (2)(a) of regulation 35(a) (waste information), omit “(England) Regulations 2005 or, as the case may be, the List of Wastes (Wales) Regulations 2005”.

(4) For sub-paragraph (3)(b) of paragraph 11 of Schedule 1 (waste prevention programmes and waste management plans), substitute—

“(b) naturally occurring material falling within the description of code 17 05 04 in the List of Wastes.”.

Amendment of the Controlled Waste (England and Wales) Regulations 2012

9. In paragraph 1 of Schedule 1 to the Controlled Waste (England and Wales) Regulations 2012(b) (household, industrial and commercial waste), for paragraph (c) of the definition of “offensive waste”, substitute—

“(c) falls within the description of code 18 01 04, 18 02 03 or 20 01 99 in the list of wastes established by Commission Decision 2000/532/EC 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, as amended from time to time;”.

Revocations

10. The following Regulations are revoked—

- (a) the List of Wastes (England) Regulations 2005(c);
- (b) the List of Wastes (England) (Amendment) Regulations 2005(d).

Transitional provisions

11. Schedule 2 (modifications to permits etc.) has effect.

5th June 2015

Rory Stewart
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

SCHEDULE 1

Regulation 3(8)

New Schedule 8

“SCHEDULE 8

Regulation 54

Form of consignee’s return to producer or holder

-
- (a) Paragraph 2 of regulation 3 was amended by S.I. 2014/656.
 - (b) S.I. 2012/811, to which there are amendments not relevant to these Regulations.
 - (c) S.I. 2005/895, amended by S.I. 2005/1673, 2011/988 and 2013/141.
 - (d) S.I. 2005/1673.

Hazardous waste producer returns form

1. Consignee details

Name of consignee	Postcode	Consignee hazardous waste i.d. code	Date ^(a)

2. Waste return

Consignment note number	Date received	Mode of transport	Frequency of collection ^(b)	Six digit code(s) ^(c)	Hazard code(s) ^(d)	Physical form ^(e)	Quantity (kg)	Mode of disposal/recovery ^(f)

^(a)Date of submission of the return by the consignee.

^(b)Where relevant.

^(c)The six digit code(s) must correspond to the relevant code(s) in the list of wastes. There may be more than one waste stream for each consignment note. All relevant six digit codes must be recorded.

^(d)**Hazard code:** the hazard code must correspond to the list below. Each individual six digit code may have more than one hazard code. Each appropriate hazard code for a particular six digit code must be entered. Choose all of the appropriate hazard codes for the particular waste. If a waste contains a substance listed in Annex IV to Regulation (EC) No 850/2004 on persistent organic pollutants, and the concentration limit in that Annex is exceeded, the code "POP" must be recorded.

Hazard code	Description
HP 1	Explosive
HP 2	Oxidising
HP 3	Flammable
HP 4	Irritant – skin irritation and eye damage
HP 5	Specific Target Organ Toxicity (STOT)/ Aspiration Toxicity
HP 6	Acute Toxicity
HP 7	Carcinogenic
HP 8	Corrosive
HP 9	Infectious
HP 10	Toxic for reproduction
HP 11	Mutagenic
HP 12	Release of an acute toxic gas
HP 13	Sensitising
HP 14	Ecotoxic
HP 15	Waste capable of exhibiting a hazardous property listed above not directly displayed by the original waste
POP	Persistent Organic Pollutant

^(e)**Physical form:** Choose one option from the following list as appropriate.

Gas
Liquid
Mixed
Powder
Sludge
Solid

^(f)**Mode of disposal/recovery or rejected:** use the appropriate Dxx/Rxx code for the operation performed on the waste or insert REJ if the waste has been rejected.

Code	Disposal operation
D01	Deposit into or onto land
D02	Land treatment
D03	Deep injection
D04	Surface impoundment
D05	Specially engineered landfill
D06	Release into a water body except seas/oceans
D07	Release into seas/oceans including seabed insertion
D08	Biological treatment not specified elsewhere which results in final compounds or mixtures which are disposed of by any of the operations numbered D01 to D12
D09	Physic-chemical treatment not specified elsewhere which results in final compounds or mixtures which are disposed of by any of the operations numbers D01 to D12
D10	Incineration on land
D11	Incineration at sea
D12	Permanent storage
D13	Blending or mixing prior to submission to any of the operations numbered D01 to D12
D14	Repackaging prior to submission to any of the operations numbered D01 to D12
D15	Storage pending any of the operations numbered D01 to D14 (excluding temporary storage, pending collection, on the site where it is produced).
	Recovery operation

R01	Use principally as a fuel or other means to generate energy
R02	Solvent reclamation/regeneration
R03	Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes)
R04	Recycling/reclamation of metals and metal compounds
R05	Recycling/reclamation of other inorganic materials
R06	Regeneration of acids or bases
R07	Recovery of components used for pollution abatement
R08	Recovery of components from catalysts
R09	Oil refining or other re-uses of oil
R10	Land treatment resulting in benefit to agriculture or ecological treatment
R11	Use of wastes obtained from any of the operations numbered R01 to R10
R12	Exchange of wastes for submission to any of the operations numbered R01 to R11
R13	Storage of wastes pending any of the operations numbered R01 to R12 (excluding temporary storage, pending collection, on the site where it is produced)

”

SCHEDULE 2

Regulation 11

Modifications to permits etc.

Modifications relating to hazardous waste codes

1.—(1) Any reference in a permit or standard rule to an outdated hazardous waste code is taken to be a reference to the equivalent updated code in accordance with the following correlation table—

<i>Outdated code</i>	<i>Updated code</i>
H1 (explosive)	HP1 (explosive)
H2 (oxidizing)	HP2 (oxidising)
H3-A (highly flammable)	HP3 (flammable)
H3-B (flammable)	HP3 (flammable)
H4 (irritant)	HP4 (irritant – skin irritation and eye damage)
H5 (harmful)	HP5 (specific target organ toxicity (STOT)/aspiration toxicity); and HP6 (acute toxicity)
H6 (toxic)	HP5 (specific target organ toxicity (STOT)/aspiration toxicity); and HP6 (acute toxicity)
H7 (carcinogenic)	HP7 (carcinogenic)
H8 (corrosive)	HP8 (corrosive)
H9 (infectious)	HP9 (infectious)
H10 (toxic for reproduction)	HP10 (toxic for reproduction)
H11 (mutagenic)	HP11 (mutagenic)
H12 (waste which releases toxic or very toxic gases in contact with water, air or an acid)	HP12 (release of an acute toxic gas)
H13 (sensitizing)	HP13 (sensitising)
H14 (ecotoxic)	HP14 (ecotoxic)
H15 (waste capable by any means, after disposal, of yielding another substance, e.g. a leachate, which possesses any of the characteristics listed above)	HP15 (waste capable of exhibiting a hazardous property listed above not directly displayed by the original waste)

(2) In this paragraph—

“outdated hazardous waste code” means a code or description of a code set out in Annex III to Directive 2008/98/EC of the European Parliament and of the Council on waste (properties of waste which render it hazardous), as adopted on 19th November 2008(a);

“updated code” means a code or description of a code set out in Annex III to Directive 2008/98/EC of the European Parliament and of the Council on waste, as amended by Commission Regulation (EU) No 1357/2014 replacing Annex III to Directive 2008/98/EC of the European Parliament and of the Council on waste(b).

Modifications relating to list of wastes codes

2.—(1) Any reference in a permit or standard rule to a six-digit code in the outdated List of Wastes is taken to be a reference to the equivalent six-digit code in the updated List.

(2) In sub-paragraph (1)—

(a) OJ No L 312, 22.11.2008, p.3.

(b) OJ No L 365, 19.12.2014, p.89.

“outdated List of Wastes” means—

- (a) the EU List of Wastes, as adopted on 3rd May 2000(a);
- (b) the EU List of Wastes, as amended by Commission Decision 2001/118/EC amending Decision 2000/532 as regards the list of wastes(b);
- (c) the EU List of Wastes, as last amended by Commission Decision 2001/119/EC amending Decision 2000/532/EC 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(c);
- (d) the EU List of Wastes, as last amended by Council Decision 2001/573/EC amending Commission Decision 2000/532/EC as regards the list of wastes(d); or
- (e) any of those lists as they were from time to time set out in the List of Wastes (England) Regulations 2005;

“six-digit code” means a six-digit code or a description of a six-digit code;

“updated List” means the list established by the EU List of Wastes, as last amended by Commission Decision 2014/955/EU amending Decision 2000/532/EC on the list of waste pursuant to Directive 2008/98/EC of the European Parliament and of the Council(e).

(3) In sub-paragraph (2), “the EU List of Wastes” means Commission Decision 2000/532/EC 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.

Meaning of permit and standard rule

3. In this Schedule—

“permit” has the meaning given to “environmental permit” in regulation 13(1) of the Environmental Permitting (England and Wales) Regulations 2010(f) and includes a marine licence granted under Part 4 of the Marine and Coastal Access Act 2009(g);

“standard rule” means any rule published under regulation 26(5) of the Environmental Permitting (England and Wales) Regulations 2010.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to enactments which concern hazardous waste or cross-refer to other enactments or European Union instruments concerning hazardous waste.

Directive 2008/98/EC of the European Parliament and of the Council on waste (Directive OJ No L 312, 22.11.08, p.3) (“the Directive”) was amended on 19th December 2014 by Commission Regulation (EU) No 1357/2014 (OJ No L 365, 19.12.14, p.89). Accordingly, paragraph (a) of regulation 2 updates references to the Directive in subsections (1)(b) and (2)(b) of section 62A of the Environmental Protection Act 1990 (c.43) (“the EPA 1990”). Other enactments are similarly updated (regulations 3(2) and 7(2)(a)).

On 30th December 2014 Commission Decision 2000/532/EC 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

(a) OJ No L 226, 6.9.2000, p.3.

(b) OJ No L 47, 16.2.2001, p.1.

(c) OJ No L 47, 16.2.2001, p.32.

(d) OJ No L 203, 28.7.2001, p.18.

(e) OJ No L 370, 30.12.2014, p.44.

(f) S.I. 2010/675, to which there are amendments not relevant to these Regulations.

(g) 2009 c.23.

Council Directive 91/689/EEC on hazardous waste (OJ No L 226, 6.9.2000, p.3) (“the List of Wastes”) was amended by Commission Decision 2014/955/EU (OJ No L 370, 30.12.2014, p.44). Paragraph (b) of regulation 2 amends subsection (3) of section 62A of the EPA 1990 such that the reference to the List of Wastes is a reference to that List as amended from time to time. Other enactments are amended with like effect (regulations 2(b), 3(4), 5(b), 7(3)(a)(i), 8(2) and 9).

Regulations 4, 6 and 7(2)(b) and (4) amend enactments as a consequence of Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE) (OJ No L 197, 24.7.2012, p.38). Regulation 10 revokes the List of Wastes (England) Regulations 2005 (S.I. 2005/895) and the List of Wastes (England) (Amendment) Regulations 2005 (S.I. 2005/1673). Schedule 2 contains transitional provisions.

An impact assessment has not been done for this instrument as no impact on business, the voluntary sector or the public sector is foreseen.

© Crown copyright 2015

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

£6.00

UK201506054 06/2015 19585

<http://www.legislation.gov.uk/id/uksi/2015/1360>

ISBN 978-0-11-113662-1



9 780111 136621