

L.N. 382 of 2015

**ENVIRONMENT AND DEVELOPMENT PLANNING ACT
(CAP. 504)**

Waste (Amendment) Regulations, 2015

IN exercise of the powers conferred by articles 61 and 62 of the Environment and Development Planning Act, the Minister for Sustainable Development, the Environment and Climate Change, after consultation with the Malta Environment and Planning Authority, has made the following regulations:-

1. The title of these regulations is the Waste Management (Amendment) Regulations, 2015, and these regulations shall be read and construed as one with the Waste Management Regulations, hereinafter referred to as "the principal regulations".

Citation.

S.L. 504.37

2. These regulations bring into effect:

Scope.

(a) Article 35 of Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006;

(b) the provisions of Commission Directive (EU) 2015/1127 of 10 July 2015 amending Annex II to Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives; and

(c) the provision of 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.

3. Paragraph (a) of sub-regulation (1) of regulation 3 of the principal regulations shall be substituted by the following:

Amends regulation 3 of the principal regulations.

S.L. 504.109

"(a) gaseous effluents emitted in the atmosphere and carbon dioxide captured and transported for the purposes of geological storage and geologically stored in accordance with of the Geological Storage of Carbon Dioxide Regulations, or excluded from the scope of the Geological Storage of Carbon Dioxide Regulations, pursuant to regulation 2(2) of the latter regulations."

Amends
Schedule 2 to
the principal
regulations.

4. In Schedule 2 to the principal regulations, the following text shall be added under footnote (*):

"The energy efficiency formula value will be multiplied by a climate correction factor (CCF) as shown below:

1. CCF for installations in operation and permitted in accordance with applicable Union legislation before 1 September 2015.

$$\text{CCF} = 1 \text{ if } \text{HDD} \geq 3\,350$$

$$\text{CCF} = 1,25 \text{ if } \text{HDD} \leq 2\,150$$

$$\text{CCF} = (0,25/1\,200) \times \text{HDD} + 1,698 \text{ when } 2\,150 < \text{HDD} < 3\,350$$

2. CCF for installations permitted after 31 August 2015 and for installations under 1 after 31 December 2029:

$$\text{CCF} = 1 \text{ if } \text{HDD} \geq 3\,350$$

$$\text{CCF} = 1,12 \text{ if } \text{HDD} \leq 2\,150$$

$$\text{CCF} = (0,12/1\,200) \times \text{HDD} + 1,335 \text{ when } 2\,150 < \text{HDD} < 3\,350$$

(The resulting value of CCF will be rounded at three decimal places).

The value of HDD (Heating Degree Days) should be taken as the average of annual HDD values for the incineration facility location, calculated for a period of 20 consecutive years before the year for which CCF is calculated. For the calculation of the value of HDD the

following method established by Eurostat should be applied: HDD is equal to $(18^{\circ}\text{C} - T_m) \times d$ if T_m is lower than or equal to 15°C (heating threshold) and is nil if T_m is greater than 15°C ; where T_m is the mean $(T_{\text{min}} + T_{\text{max}})/2$ outdoor temperature over a period of d days. Calculations are to be executed on a daily basis ($d=1$), added up to a year."

5. Schedule 3 of the principal regulations shall be substituted by the Schedule to these regulations.

Substitutes
Schedule 3 to
the principal
regulations.

6. Schedule 4 to the principal regulations shall be amended as follows:

Amends
Schedule 4 to
the principal
regulations.

(a) in the Maltese version thereof, point 1 of Part 1 thereof shall be substituted by the following:

"1. Rimi jew irkupru ta' skart mhux perikoluż tagħhom stess fuq is-sit ta' generazzjoni.";

(b) point 6 of Part 2 thereof shall be substituted by the following:

"6. Storage of returned faulty goods

The storage of returned goods that are waste, for a period not exceeding one year, by their manufacturer, distributor or retailer, where either -

(a) they are intended to be prepared for reuse or submission to a recovery operation; or

(b) they are being stored, at the place where the intention to discard them was formed, pending their disposal."; and

(c) immediately after point 10 in Part 2 thereof, there shall be added the following:

"11. Cesspits

Domestic cesspits, with the exclusion of cesspits for the collection of industrial effluents, provided that they are covered by other national legislation."

Schedule

(Regulation 5)

"Schedule 3

Properties of waste which render it hazardous

HP 1 "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	

HP 2 "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)
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	

HP 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	
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	H261
Water-react. 3	

HP 4 "**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.

HP 5 "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 equaled, 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 the concentration limit for the waste to be classified as hazardous by HP 5.

When a waste contains one or more substances classified as Asp. Tox. 1 and the sum of those substances exceeds or equals the concentration limit, the waste shall be classified as hazardous by HP 5 only where the overall kinematic viscosity (at 40 °C) does not exceed 20.5 mm²/s.*

Table 4: Hazard Class and Category Code(s) and Hazard statement Code(s) for waste constituents and the corresponding concentration limits for the classification of wastes as hazardous by HP 5:

Hazard Class and Category Code(s)	Hazard statement Code(s)	Concentration limit
STOT SE 1	H370	1%
STOT SE 2	H371	10%
STOT SE 3	H335	20%
STOT RE 1	H372	1%
STOT RE 2	H373	10%

* The kinematic viscosity shall only be determined for fluids.

Asp. Tox. 1	H304	10%
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HP 6 "**Acute Toxicity**": waste which can cause acute toxic effects following oral or dermal administration, or inhalation exposure.

If the sum of the concentrations of all substances contained in a waste, classified with an acute toxic hazard class and category code and hazard statement code given in Table 5, exceeds or equals the threshold given in that table, the waste shall be classified as hazardous by HP 6. When more than one substance classified as acute toxic is present in a waste, the sum of the concentrations is required only for substances within the same hazard category.

The following cut-off values shall apply for consideration in an assessment:

- For Acute Tox. 1, 2 or 3 (H300, H310, H330, H301, H311, H331): 0.1%;
- For Acute Tox. 4 (H302, H312, H332): 1%.

Table 5: Hazard Class and Category Code(s) and Hazard statement Code(s) for waste constituents and the corresponding concentration limits for the classification of wastes as hazardous by HP 6:

Hazard Class and Category Code(s)	Hazard statement Code(s)	Concentration limit
Acute Tox.1 (Oral)	H300	0,1%
Acute Tox. 2 (Oral)	H300	0,25%
Acute Tox. 3 (Oral)	H301	5%
Acute Tox. 4 (Oral)	H302	25%
Acute Tox.1 (Dermal)	H310	0,25%
Acute Tox. 2 (Dermal)	H310	2,5%
Acute Tox. 3 (Dermal)	H311	15%
Acute Tox. 4 (Dermal)	H312	55%
Acute Tox. 1 (Inhal.)	H330	0,1%
Acute Tox. 2 (Inhal.)	H330	0,5%
Acute Tox. 3 (Inhal.)	H331	3,5%
Acute Tox. 4 (Inhal.)	H332	22,5%

HP 7 "**Carcinogenic**": waste which induces cancer or increases its incidence.

When a waste contains a substance classified by one of the following hazard class and category codes and hazard statement codes and exceeds or equals one of the following concentration limits shown in Table 6, the waste shall be classified as hazardous by HP 7. When more than one substance classified as carcinogenic is present in a waste, an individual substance has to be present at or above the concentration limit for the waste to be classified as hazardous by HP 7.

Table 6: Hazard Class and Category Code(s) and Hazard statement Code(s) for waste constituents and the corresponding concentration limits for the classification of wastes as hazardous by HP 7:

Hazard Class and Category Code(s)	Hazard statement Code(s)	Concentration limit
Carc. 1A	H350	0,1%
Carc. 1B		
Carc. 2	H351	1,0%

HP 8 "Corrosive": waste which on application can cause skin corrosion.

When a waste contains one or more substances classified as Skin corr.1A, 1B or 1C (H314) and the sum of their concentrations exceeds or equals 5%, the waste shall be classified as hazardous by HP 8.

The cut-off value for consideration in an assessment for Skin corr. 1A, 1B, 1C (H314) is 1.0 .

HP 9 "Infectious": waste containing viable micro-organisms or their toxins which are known or reliably believed to cause disease in man or other living organisms.

HP 10 "Toxic for Reproduction": waste which has adverse effects on sexual function and fertility in adult males and females, as well as developmental toxicity in the offspring.

When a waste contains a substance classified by one of the following hazard class and category codes and hazard statement codes and exceeds or equals one of the following concentration limits shown in Table 7, the waste shall be classified hazardous according to HP 10. When more than one substance classified as toxic for reproduction is present in a waste, an individual substance has to be present at or above the concentration limit for the waste to be classified as hazardous by HP 10.

Table 7: Hazard Class and Category Code(s) and Hazard statement Code(s) for waste constituents and the corresponding concentration limits for the classification of wastes as hazardous by HP 10:

Hazard Class and Category Code(s)	Hazard statement Code(s)	Concentration limit
Repr. 1A	H360	0,3%
Repr. 1B		
Repr. 2	H361	3,0%

HP 11 "Mutagenic": waste which may cause a mutation, that is a permanent change in the amount or structure of the genetic material in a cell.

When a waste contains a substance classified by one of the following hazard class and category codes and hazard statement codes and exceeds or equals one of the following concentration limits shown in Table 8, the waste shall be classified as hazardous according to HP 11. When more than one substance classified as mutagenic is present in a waste, an individual substance has to be present at or above the concentration limit for the waste to be classified as hazardous by HP 11.

Table 8: Hazard Class and Category Code(s) and Hazard statement Code(s) for waste constituents and the corresponding concentration limits for the classification of wastes as hazardous by HP 11:

Hazard Class and Category Code(s)	Hazard statement Code(s)	Concentration limit
Muta. 1A	H340	0,1%
Muta. 1B		
Muta. 2	H341	1,0%

HP 12 "Release of an acute toxic gas": waste which releases acute toxic gases (Acute Tox. 1, 2 or 3) in contact with water or an acid.

When a waste contains a substance assigned to one of the following supplemental hazards EUH029, EUH031 and EUH032, it shall be classified as hazardous by HP 12 according to test methods or guidelines.

HP 13 "Sensitising": waste which contains one or more substances known to cause sensitising effects to the skin or the

respiratory organs.

When a waste contains a substance classified as sensitising and is assigned to one of the hazard statement codes H317 or H334 and one individual substance equals or exceeds the concentration limit of 10%, the waste shall be classified as hazardous by HP 13.

HP 14 "**Ecotoxic**": waste which presents or may present immediate or delayed risks for one or more sectors of the environment.

HP 15 "**Waste capable of exhibiting a hazardous property listed above not directly displayed by the original waste**"

When a waste contains one or more substances assigned to one of the hazard statements or supplemental hazards shown in Table 9, the waste shall be classified as hazardous by HP 15, unless the waste is in such a form that it will not under any circumstance exhibit explosive or potentially explosive properties.

Table 9: Hazard statements and supplemental hazards for waste constituents for the classification of wastes as hazardous by HP 15:

Hazard Statement(s)/Supplemental Hazard(s)	
May mass explode in fire	H205
Explosive when dry	EUH001
May form explosive peroxides	EUH019
Risk of explosion if heated under confinement	EUH044

In addition, the competent authority may characterise a waste as hazardous by HP 15 based on other applicable criteria, such as an assessment of the leachate.

Note

Attribution of the hazardous property HP 14 is made on the basis of the criteria laid down

Regulation (EC) No 1272/2008 on the classification, labelling and packaging of substances and mixtures* .

* OJ L 353 31.12.2008, p. 1

Test Methods

The methods to be used are described in Council Regulation (EC) No 440/2008* and in other relevant CEN notes or other internationally recognised test methods and guidelines."

* Council Regulation (EC) No 440/2008 of 30 May 2008 laying down test methods pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) ([OJ L 142, 31.5.2008, p. 1](#))

