



Brussels, **XXX**
[...] (2024) **XXX** draft

COMMISSION DELEGATED DECISION (EU) .../...

of **XXX**

**amending Decision 2000/532/EC as regards an update of the list of waste in relation to
battery-related waste**

(Text with EEA relevance)

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Batteries are one of the key enablers for sustainable development, green mobility, clean energy and climate neutrality. The Regulation on Batteries and Waste Batteries¹ (“the Regulation”) introduces a harmonised regulatory framework for dealing with the entire life cycle of batteries placed on the EU market. To help manage waste, the European list of waste², as last amended³ in the 2014, provides common terminology for classifying waste across the EU, including hazardous waste.

Pursuant to recital 116 of the Regulation the Commission should revise this list to take account of new battery chemistries and rapidly evolving manufacturing and recycling processes. The objective is to improve the identification, monitoring and traceability of the different waste streams and provide certainty about their status as hazardous / non-hazardous waste, in order to enable proper sorting and reporting of such waste batteries. Similarly, the communication on Critical Raw Materials⁴ envisages a targeted amendment of the list of waste in 2024 to take account of the emergence of new battery chemistries (in particular lithium-based and nickel-based batteries), evolving manufacturing and recycling processes, and proper sorting, recycling and reporting of waste batteries in the context of the new Batteries Regulation. The amendment also aims at increasing protection of environment and human health by ensuring proper management of battery-related waste. More broadly, this should also be seen in the context of a recycling value chain that works well, supporting the application of rules on recycling efficiencies for waste batteries and on recycled content in new batteries.

Among the new codes, new hazardous waste codes have been introduced to identify intermediate fractions from battery waste treatment, commonly referred to as “black masses”. Classification as hazardous for such waste is supported by up-to-date information on composition and classification of components according to the to the Classification, Labelling and Packaging (CLP) Regulation⁵, which implement the Globally Harmonised System in the EU.

The classification of battery-related waste streams impacts the extent to which they are subject to applicable waste shipment rules in accordance with the Waste Shipment Regulation. Such rules have been established with the objective of protecting the environment and human health.

¹ Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 concerning batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC (OJ L 191, 28.7.2023, p. 1.).

² 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.).

³ Commission Decision 2014/955/EU of 18 December 2014 amending Decision 2000/532/EC on the list of waste pursuant to Directive 2008/98/EC of the European Parliament and of the Council (OJ L 370, 30.12.2014, p. 44).

⁴ COM (2023) 165 final, Communication on a secure and sustainable supply of critical raw materials in support of the twin transitions.

⁵ 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 Directive 67/548/EEC and 199/45/EC, and amending Regulation (EC) No 1907/2006.

Besides the introduction of waste codes for new battery-related wastes in the list of waste, the amendment replaces the current non-hazardous waste code for alkaline batteries with a new waste code according to which all alkaline batteries are classified as hazardous waste. The classification of alkaline batteries, originally based on an assessment made in the early 1990s, has been adapted to technical and scientific progress by taking into account the concentration of relevant substances in batteries and their hazardous classification according to the CLP Regulation.

Waste lithium-based batteries give rise to specific challenges for transport and treatment due to explosion and fire hazards, in particular in municipal waste. To contribute to the safe and effective management of waste lithium-based batteries, a new specific hazardous waste code for lithium-based batteries is introduced in sub-chapter 20 01 of the waste list, covering separately collected fractions of municipal waste. This code should be used in cases where separate collection of waste lithium-based batteries is implemented, as an alternative to the hazardous waste code applicable to sorted and unsorted hazardous waste batteries of municipal origin.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

This is a technical act and it did not need to be supported by an impact assessment or open public consultation, in particular given the technical nature of the measure and the unambiguous hazard classification of waste. The latter results from the application of established rules for the classification of chemicals and waste. More specifically, the proposed classification of waste as hazardous or non-hazardous is based on up-to-date information about composition and classification of components according to the EU classification rules provided in the CLP Regulation and in Annex III of Directive 2008/98/EC⁶ (Waste Framework Directive).

The delegated act draws on a report of the Joint Research Centre (JRC) of the Commission⁷ prepared with the input of stakeholders, including a consultation of the expert group on waste on 31 March 2023, a workshop on 21 November 2023 and a dedicated stakeholder consultation. The proposal was then discussed in the expert group on waste, in its formation including Member State representatives, businesses and civil society on 8 May 2024 and written comments were received by 8 June 2024. Member States were informed how their comments were taken into account in the meeting of the Committee for the adaptation to scientific and technical progress and implementation of the Directives on Waste established under Article 39 of the Waste Framework Directive on 20 September 2024.

The draft delegated act was published for public feedback on the Better Regulation Portal from [...] to [...] 2024. It was notified to the World Trade Organization Committee on Technical Barriers to Trade on [] 2024.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The delegated act is adopted pursuant to Article 7(1) of the Waste Framework Directive which empowers the Commission to adopt delegated acts in accordance with Article 38a of

⁶ 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).

⁷ JRC report: Technical recommendations for the targeted amendment of the European List of Waste entries relevant to batteries, 2024

the Directive in order to supplement it by reviewing the list of waste established under the Directive.

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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 of 19 November 2008 on waste and repealing certain Directives⁸, and in particular Article 7(1) thereof,

Whereas:

- (1) A list of waste was established by Council Decision 94/3/EC⁹, followed by a list of hazardous waste established by Council Decision 94/904/EC¹⁰. Those Decisions were replaced by Commission Decision 2000/532/EC¹¹.
- (2) New battery chemistries, in particular as regards lithium-based, sodium-based and nickel-based batteries, have emerged during the past years and manufacturing and recycling processes for batteries have evolved. That evolution has been taken into account in the context of Regulation (EU) 2023/1542 of the European Parliament and of the Council¹² and should be reflected in the list of waste.
- (3) Regulation (EU) 2023/1542 furthermore introduces new and modified terminology, applicable to battery-related waste (that is to say battery manufacturing waste, waste batteries and fractions thereof), which consequently should also be reflected in the list of waste.
- (4) Therefore, it is necessary to update the list of waste set out in Decision 2000/532/EC to take into account new battery chemistries and battery-related waste management, the evolving battery market and to improve the identification and classification of relevant waste streams as well as to support improved sorting, recycling and reporting of battery-related waste.

⁸ OJ L 312, 22.11.2008, p.3, ELI: <http://data.europa.eu/eli/dir/2008/98/oj>.

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¹¹ 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, ELI: <http://data.europa.eu/eli/dec/2000/532/oj>).

¹² Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 concerning batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC (OJ L 191, 28.7.2023, p. 1, ELI: <http://data.europa.eu/eli/reg/2023/1542/oj>).

- (5) The classification of specific waste streams as hazardous waste, relying on up to date evidence-based information on composition and hazard classification of constituent substances, is essential to ensure that waste management is carried out without endangering human health and without harming the environment. Hazardous waste entries included in the list of waste should be classified taking into account the origin and composition of the waste, as well as the applicable concentration limit values for hazardous substances, as legally defined in Annex III of Directive 2008/98/EC, for substances classified as hazardous, according to the criteria defined in Regulation (EC) No. 1272/2008 of the European Parliament and of the Council¹³.
- (6) The classification of alkaline batteries should be adapted to technical and scientific progress by taking into account the concentration of relevant substances in batteries and their hazardous classification in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council.
- (7) In order to contribute to the safe and effective management of waste lithium-based batteries of municipal origin, a new hazardous waste code for lithium-based batteries, which covers separately collected fractions of municipal waste, should be introduced.
- (8) Decision 2000/532/EC should therefore be amended accordingly.
- (9) In order to allow operators and authorities to adequately implement the new and modified waste codes, in particular for waste classified or re-classified as hazardous, and to make the necessary structural and operational changes in facilities managing battery-related waste, as well as to allow for the adaptation, submission and processing of waste permits, the application of this Decision should be deferred,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 2000/532/EC is amended in accordance with the Annex to this Decision.

Article 2

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

It shall apply from [OP, please insert the date = 18 months after the date of entry into force of this Decision].

Article 3

This Decision is addressed to the Member States.

¹³ 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 Directive 67/548/EEC and 199/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1, ELI: <http://data.europa.eu/eli/reg/2008/1272/oj>).

Done at Brussels,

For the Commission

The President

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