

## **WORKING GROUP FOR THE AMENDMENT OF THE EUROPEAN WASTE LIST**

### **SUMMARY RECORD OF THE MEETING HELD ON 19 APRIL 2011**

#### **Draft Agenda**

- **APPROVAL OF THE AGENDA**
- **SUMMARY OF NEW DEVELOPMENTS SINCE THE LAST WG MEETING: H CRITERIA**
- **H12**
- **H15**
- **SPECIFIC CONCENTRATION LIMITS FOR POPs: DIOXINS / FURANS**
- **REVIEW OF LIST OF WASTE:**
  - discussion of general principles (based on Ch. Hall's Proposal)
  - discussion of implications of principles for some selected chapters
  - chapter 16
- **ANY OTHER BUSINESS**

#### **1 APPROVAL OF THE AGENDA**

The agenda was approved.

#### **2 APPROVAL OF THE MINUTES**

The minutes of the last WG session held on 10 March – 11 March 2011 were approved.

#### **3 SUMMARY OF NEW DEVELOPMENTS SINCE THE LAST WG MEETING**

The Commission presented a summary of the new developments since the last WG meeting (see Annex I to the meeting minutes).

FI proposed to focus on the development of the H criteria and to address the review of the LoW entries in a continuous process. Should the task be too time consuming for this WG, a tiered approach should be chosen:

1. Structural LoW changes should be discussed first
2. Individual entries should be discussed subsequently

The proposal was supported by DE, AU and the UK. DE reminded the WG of the agreement of the WG to avoid major structural changes to the LoW. The UK mentioned that, according to their view and the feedback from other MS, the work on the LoW should mainly concentrate on chapters 16, 19 and 20.

#### 4 H CRITERIA – STATUS QUO OF THE DISCUSSION; FURTHER APPROACH

Ökopol presented the state of the discussions regarding the H criteria (see Annex II to the meeting minutes), followed by a discussion on open/further issues. Solutions suggested in the meeting are included in these minutes. Furthermore, it was suggested to draft a document with all definitions of the H Criteria, the corresponding limit values and other agreements on (e.g. a footnote on landfill) as soon as possible in order to have a consolidated document.

As a starting point for discussion, the most preferred option after the meeting of 10-11 March was showed with the open issues highlighted in red (see below). Subsequently, an overview of the state of the play was given and the proposals under discussion were presented.

##### 4.1 H1 to H3: Explosive – Oxidising – Flammable

###### **H1 Explosive**

*Wastes which are 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 substances, types A and B organic **peroxides** and types A and B self-reactive wastes are included.*

###### **H2 Oxidising**

*Wastes which may, generally by providing oxygen, cause, or contribute to the combustion of other materials.*

###### **H3 Flammable (first indent) flammable liquids:**

***liquid wastes 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***

###### **H3 Flammable (second indent) pyrophoric liquids and solids:**

*solid or liquid wastes which, even in small quantities, are liable to ignite within five minutes after coming into contact with air*

###### **H3 Flammable (third indent) flammable solids:**

*solid wastes which are readily combustible, or may cause or contribute to fire through friction*

###### **H3 Flammable (fourth indent) flammable gases:**

*gaseous wastes which are flammable in air at 20°C and a standard pressure of 101.3 kPa*

###### **H3 Flammable (fifth indent) water reactives:**

*wastes which, in contact with water, emit flammable gases in dangerous quantities*

###### **H3 Flammable (sixth indent) other flammable wastes:**

*flammable aerosols, self-heating wastes, **organic peroxides (types C to F)** and self-reactive wastes (types C to F)*

##### **Open issue Peroxides**

In general the distribution of type A and B peroxides to H1 and the types C to F to H3 was supported by several MS (FI, AU, DE).

FR expressed slight reservations to the proposal, FR would prefer to include type C to F peroxides in H2 because this would be more in line with national legislation.

DE proposed additionally to remove the “type” of the peroxides and to include CLP H-statements instead (which is in line with a proposal formulated during the March meeting and has been accepted, see minutes on March meeting).

It was agreed to distribute the peroxides as described between H1 and H3.

### Open issue: flash point

There was a brief discussion about the relevance of this criterion in the definition. Most countries agreed that no clear picture on this issue can be seen. There was a slight tendency to keep it in the definition. Further information will be requested by the Commission from ECHA whether there is more information about the impact.

### Definitions: Preliminary proposal

#### H1 Explosive

*Wastes which are 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 substances, organic peroxides and self-reactive wastes are included.*

**CLP H-statements:** 200; 201; 202; 203; 204; 205; 240; 241; EUH001; EUH006; EUH019; EUH044

#### H2 Oxidising

*Wastes which may, generally by providing oxygen, cause, or contribute to the combustion of other materials.*

**CLP H-statements:** H270; 271; 272

#### H3 Flammable

- **flammable liquids:**  
*liquid wastes 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*
- **pyrophoric liquids and solids:**  
*solid or liquid wastes which, even in small quantities, are liable to ignite within five minutes after coming into contact with air*
- **flammable solids:**  
*solid wastes which are readily combustible, or may cause or contribute to fire through friction*
- **flammable gases:**  
*gaseous wastes which are flammable in air at 20°C and a standard pressure of 101.3 kPa*
- **water reactives:**  
*wastes which, in contact with water, emit flammable gases in dangerous quantities*
- **other flammable wastes:**  
*flammable aerosols, self-heating wastes, organic peroxides and self-reactive wastes*

**CLP H-statements:** 220; 221; 222; 223; 224, 225; 226; 228; 242; 250; 251; 252; 260; 261

## 4.2 H 4/8 Irritant/Corrosive

#### H4/H8 Irritant/Corrosive

*Wastes which on application can cause reversible or irreversible damage to the skin or to the eye or which by chemical action will materially damage, or even **destroy metals** wastes which on application can cause reversible damage to the skin or to the eye*

**Errore. L'origine riferimento non è stata trovata.**

## **4.2 H4/H8: Irritant - Corrosive**

### **Open issue: merging H4 and H8**

Some concerns have been raised that merging of H4 and H8 to one new H-criterion would render landfilling of wastes formerly classified as irritant (H4) impossible because corrosive wastes are not allowed to be disposed of at landfills. It was agreed to include a footnote clarifying that wastes classified as hazardous by the new H criterion will include wastes that are allowed for landfilling, as well as wastes that must not be landfilled. As a consequence, an additional assessment of a waste would be needed which is not covered by the article 2 criteria. A wording for the footnote was proposed by FI which was accepted by the members of the WG.

The proposed wording is:

*"Wastes fulfilling the criteria for classification as Skin. Irrit. 2 (H315), Eye Dam. 1 (H318) or Eye Irrit. 2 (H319) according to Regulation (EC) No. 1272/2008 (CLP) are not considered as corrosive in the conditions of landfill, in accordance with the Article 5(3)(b) of the Council Directive 1999/31/EC on the landfill of waste "*<sup>1</sup>

The Commission will have a final check with the landfill department and the legal service of the commission whether this solution is adequate.

### **Open issue: limit values**

It was agreed that the limit values of the CLP will be taken into account.

In this context it was also agreed that fixed limit values should be set in the LoW for the H criteria (where relevant), rather than a dynamic link to CLP (the latter option would imply that limit values for LoW would change automatically every time the limit values are modified in CLP).

### **Open issue: corrosiveness to metals**

After a short discussion, it was agreed that the statement "corrosive to metals" should be part of H4/8. If significant impacts can be proved, the discussion could be re-opened at a later stage.

### **Definition: Preliminary proposal<sup>2</sup>**

#### **H4/H8 Irritant/Corrosive<sup>1</sup>**

*Wastes which on application can cause reversible or irreversible damage to the skin or to the eye or which by chemical action will materially damage, or even destroy metals wastes which on application can cause reversible damage to the skin or to the eye*

*CLP H-statements*

*(other criteria)      limit values      Cut off Limits*

<sup>1</sup> The wording has been slightly adapted to the version FI provided after the April meeting in an exchange between Ökopol and FI. The reference to CLP has been included to reach more clarity for the reader.

<sup>2</sup> Only concentrations of a substance above this value will be considered for assessment against the limit value for classification (see also section 4.3)

314	1%	1%
315	10%	1%
pH≤2	1%	1%
pH≥11.5	1%	1%
318	1%	1%
319	10%	1%

<sup>1</sup> "Wastes fulfilling the criteria for classification as Skin. Irrit. 2 (H315), Eye Dam. 1 (H318) or Eye Irrit. 2 (H319) according to Regulation (EC) No. 1272/2008 (CLP) are not considered as corrosive in the conditions of landfill, in accordance with the Article 5(3)(b) of the Council Directive 1999/31/EC on the landfill of waste "

### 4.3 H5/H6: Harmful - Toxic

#### Option 3 – CLP compressed

##### H5/H6 Fatal, toxic, harmful:

*“Wastes which have a fatal, toxic or harmful effect following oral or dermal administration or inhalation exposure, which can cause **specific organ toxicity** either from a **single or repeated** exposure or which cause severe acute toxic effects following **aspiration**”*

#### Alternative Option according to the French proposal

##### H6 **Specific organ toxicity (STOT)**

Waste containing **category 1** substances in such quantities that it can cause specific organ toxicity either from a single or repeated exposure

CLP H statements: H370, H371, H372, H304

##### H5 acute toxicity (H5 Harmful/H6 Toxic = Acute toxicity)

*“Waste which contains one or more harmful, fatal or toxic substance in such quantities that it can cause **specific organ toxicity** either from a single or repeated exposure or cause severe acute toxic effects following **aspiration**.”*

CLP H statements: H300, H301, H302, H310, H311, H312, H330, H331, H332

**Errore. L'origine riferimento non è stata trovata.**

#### Open issue: definition

After the last meeting in March two definition proposals remained. In principle both proposals could cover every impact on human health covered by CLP. The question in principle is only which level of aggregation will be suitable for the user of the H-criteria in practice later on.

The first proposal has a high level of aggregation that covers all acute toxic effects of CLP, effects on single organs (STOT) or specific organs (aspiration) including acute (single exposure) and chronic (repeated exposure). Under discussion has been whether sensitising effects also should be covered by this one definition.

The second proposal tends to follow the level of aggregation of the CLP more closely. It provides one definition to cover all acute toxic effects of CLP that are based on acute toxic estimates (ATE) and which are additive to each other. It furthermore provides a second definition that can serve as a definition for the other effects described above.

To include the effects in one of the two proposals seems logical as these will cover all categories that have been gathered under the old chemicals legislation (Directives 67/548/EEC and 1999/45/EC) also and will therefore have the same wastes covered as before.

It is hard to predict whether the adaptation to CLP will affect the amounts of wastes classified as hazardous. The limits between acute toxic effects have been changed somewhat; this could lead to an increase of the amounts of waste classified as hazardous. On the other hand STOT effects have been removed from the old “harmful”, “toxic” and “very toxic” categories and are therefore not additive anymore (which they formerly have been). So this might lead to a decrease of the amounts of hazardous wastes. An issue in this and other contexts is the reclassification of substances because of new information becoming available e.g. from REACH registration dossiers. These effects are not connected with system changes to CLP.

In general it was agreed to adapt the numbering of the H criteria. This will be done in order to ensure that “toxic” remains H6.

After these general discussions regarding the definitions, some issues were discussed that have to be solved for both proposals:

### **Open issue: “Additivity” and “limit values”**

Under the old chemicals legislation “very toxic”, “toxic” and “harmful” are additive properties. This means that the concentrations of all substances above the generic cut off levels (see Ökopol presentation, meeting of April) of one of the categories are added up and assessed against a certain limit value. Furthermore, the three categories represent different levels of the same effect. “Very toxic” has been the highest level whereas “harmful” has been the least hazardous effect. Therefore a substance of a higher level contributed to the assessment against the limit value of the lower level. To reflect the higher level, additionally a factor (“weight”) was included to give that substance a higher impact.

Article 2 of the LoW deviates from this principle as only substances of one category were added up and substances of “higher” hazard categories did not contribute to the lower level categories.

The situation under CLP in principle remained the same as under Directive 1999/45/EC. There are only slight changes:

1. Only “acute toxicity effects” are added up and weighted.
2. Aspiration is not included in acute toxicity anymore therefore it has an own limit value but remains additive (formerly it contributed to Xn). As there is only one category of aspiration weighting makes no sense and is not implemented.
3. STOT is removed from acute toxicity and not additive anymore (formerly it contributed to all hazard categories, T<sup>+</sup>, T, Xn including weighting).

Therefore, it can be concluded that a full implementation of the chemicals legislation in the waste sector will have less impact (in the sense of an increase of hazardous waste streams) than it would have had if the old chemicals legislation had been fully implemented. Whether there will still be an increase or not of the amounts of wastes classified as hazardous cannot be finally concluded. However, the application of the additivity and weighting principles is scientifically supported. Therefore, the members of the WG have showed a preference for applying the principles of the CLP, unless there is strong indication that this would lead to an unjustifiable increase of wastes and a deviation from CLP can be scientifically supported as well (in which case, the MS should provide some evidence).

A discussion will be needed on the issue whether specific limit values are needed.

## **Open Issue: “scope of the definitions”**

### Acute Toxicity

There was a tendency to include all acute toxicity effects of the CLP (Acute Toxic Cat. 1-4) for all exposure pathways (oral, dermal, inhalation).

Acute Toxicity category	CLP H-Statement	Cut off Limits
Cat 1 + 2	300, 310, 330	0.1%
Cat 3	301, 311, 331	0.1%
Cat 4	302, 312, 332	1%

Limit values will be implemented including weighting and additivity.

### Single Target Organ Toxicity (STOT)

There was a tendency to include all categories of STOT single exposure and repeated exposure, unless MS can find arguments for the exclusion of STOT. It was agreed not to include STOT cat 3 H335 in H4/8 and follow the approach of CLP to include it in the human health hazards. It was also supported to exclude STOT SE 3 H336 („old“ R67 Vapors may cause drowsiness and dizziness) as it has not been included in the old article 2 as well. As STOT effects are not additive (in contrast to their old categories Xn, T, T<sup>+</sup>) and the new limit values are not so strict anymore for some of the categories negative effects for the waste sector will not be probable. Therefore it was proposed to include the CLP limit values in article 2.

STOT category	CLP H-Statement	CLP limit value
STOT SE 1	370	1%
STOT SE 2	371	10%
STOT SE 3	335	20%
STOT RE 1	372	1%
STOT RE 2	373	10%

### Aspiration

There was a tendency to include Aspiration as it has been covered before. It was also supported to apply the limit value of the CLP and to apply additivity (as this has been the case before as aspiration was part of Xn by that part of old H5 harmful).

Asp. category	CLP H-Statement	CLP limit value
Cat 1	304	10%

### Sensitising

DE proposed including “sensitising” in the new definition of H5/6 (either in option 1 or 2) and deleting H 13. (See further discussion in section 4.5 on p. 11 of this document).

## Definition: Preliminary proposal

The following proposed options reflect the results of the discussion of April 2011. The wording of the definitions has been changed in a way that the definitions fit with the intended coverage. **Errore. L'origine riferimento non è stata trovata.**

### option 1

#### H5/6 Fatal/Toxic/Harmful

*“Wastes which have a fatal, toxic or harmful effect following oral or dermal administration or inhalation exposure, which can cause specific organ toxicity either from a single or repeated exposure or which cause severe acute toxic effects following aspiration”*

<i>CLP Category (other criteria)</i>	<i>CLP H-statements limit values</i>	<i>Cut off Limits</i>	<i>Further comments</i>
<i>Acute Tox.cat. 1 + 2</i>	300, 310, 330	25% (oral)	
55% (dermal)			
22.5% (inhalation gas)			
55% (inhalation, vapor)			
30% (inhalation, dust/mist)	0.1%	$Acute\ Tox.\ Oral = \sum c\ cat\ 1 \times 1000 + \sum c\ cat\ 2 \times 100 + \sum c\ cat\ 3 \times 5 + \sum c\ cat\ 4 \times 1 \geq 25\%$	
Further equations need to be elaborated for other exposure pathways			
<i>Acute Tox.cat. 3</i>	301, 311, 331		0.1%
<i>Acute Tox.cat. 4</i>	302, 312, 332		1%
STOT SE 1	370	1%	-
STOT SE 2	371	1	
%	-		
STOT SE 3	335	20%	-
STOT RE 1	372	1%	-
STOT RE 2	373	10%	-
Asp. Cat 1	304	10%	- $\sum c\ cat\ 1 \geq 10\%$

### option 2

#### H5 STOT/Aspiration

*“Wastes which have a negative effects on human health following oral or dermal administration or inhalation exposure, which can cause specific organ toxicity either from a single or repeated exposure or which cause severe acute toxic effects following aspiration”*

<i>CLP Category (other criteria)</i>	<i>CLP H-statements limit values</i>	<i>Cut off Limits</i>	<i>Further comments</i>
STOT SE 1	370	1%	- <i>Not additive</i>
STOT SE 2	371	10%	- <i>Not additive</i>
STOT SE 3	335	20%	- <i>Not additive</i>
STOT RE 1	372	1%	- <i>Not additive</i>
STOT RE 2	373	10%	- <i>Not additive</i>
Asp. Cat 1	304	10%	- $\sum c\ cat\ 1 \geq 10\%$



## H6 Harmful/Toxic

*“Wastes that contain one or more substances in such quantities that it can cause severe acute toxic effects following oral or dermal administration or inhalation exposure.”*

<i>CLP Category (other criteria)</i>	<i>CLP H-statements limit values</i>	<i>Cut off Limits</i>	<i>Further comments</i>
<i>Acute Tox.cat. 1 + 2</i>	300, 310, 330	25% (oral)	
55% (dermal)			
22.5% (inhalation gas)			
55% (inhalation, vapor)			
30% (inhalation, dust/mist)	0.1%	Acute Tox. Oral = $\sum c \text{ cat } 1 \times 1000 + \sum c \text{ cat } 2 \times 100 + \sum c \text{ cat } 3 \times 5 + \sum c \text{ cat } 4 \times 1 \geq 25\%$	
Further equations need to be elaborated for other exposure pathways			
<i>Acute Tox.cat. 3</i>	301, 311, 331		0.1%
<i>Acute Tox.cat. 4</i>	302, 312, 332		1%

## 4.4 H 7/10/11 Carcinogenic - Mutagenic - Toxic for reproduction

There has already been wide consensus on these H-criteria at the March meeting.

One issue raised in the April meeting was the question of CMR substances in relation to their presence in alloys (e.g. steel with Ni up to 5%).

CLP has a special provision included for such mixtures. In cases where such substances are present in an alloy or a rigid matrix and exposure of human and to the environment can be excluded, labelling obligations do not apply. Still the mixtures are classified according to their composition triggering other obligations under chemicals legislation like the need to provide material safety data sheets for mixtures classified hazardous. So there is no provision in CLP that such material is not classified hazardous. Steel containing Ni (element)  $\geq 1.0\%$  is a hazardous mixture.

***“CLP Annex 1.3.4. Metals in massive form, alloys, mixtures containing polymers, mixtures containing elastomers***

1.3.4.1. Metals in massive form, alloys, mixtures containing polymers and mixtures containing elastomers do not require a label according to this Annex, if they do not present a hazard to human health by inhalation, ingestion or contact with skin or to the aquatic environment in the form in which they are placed on the market, although classified as hazardous in accordance with the criteria of this Annex.

1.3.4.2. Instead, the supplier shall provide the information to downstream users or distributors by means of the SDS.”

FI will provide evidence that CMR characteristics are not relevant for these kinds of mixtures and that special provisions for such mixtures can be justified.

There was strong support for this approach. It also has to be assessed whether also other alloys will be excluded or only Ni containing alloys.

### **H7 Carcinogenic**

*“Wastes which induce cancer or increase its incidence.”*

<i>CLP Category (other criteria)</i>	<i>CLP H-statements limit values</i>	<i>Cut off</i>	<i>Limits</i>	<i>Further comments</i>
Carc. Cat 1A and 1B	350	0.1%	-	<i>Not additive</i>
Carc. Cat 2	351	1.0%	-	<i>Not additive</i>

### **H10 Toxic for reproduction**

*“Wastes which have adverse effects on sexual function and fertility in adult males and females, as well as developmental toxicity in the offspring.”*

<i>CLP Category (other criteria)</i>	<i>CLP H-statements limit values</i>	<i>Cut off</i>	<i>Limits</i>	<i>Further comments</i>
Repr. Cat 1A and 1B	360	0.3%	-	<i>Not additive</i>
Repr.. Cat 2	361	3.0%	-	<i>Not additive</i>

### **H11 Mutagenic**

*“Wastes which may cause mutation that is a permanent change in the amount or structure of the genetic material in a cell.”*

<i>CLP Category (other criteria)</i>	<i>CLP H-statements limit values</i>	<i>Cut off</i>	<i>Limits</i>	<i>Further comments</i>
Muta. Cat 1A and 1B	340	0.1%	-	<i>Not additive</i>
Muta. Cat 2	341	1.0%	-	<i>Not additive</i>

## 4.5 H 13 Sensitising

### Option 1: modify current WFD definition

*“H 13 (\*) ‘Sensitising’: Waste containing substances which, if they are inhaled or if they penetrate the skin, are capable of eliciting a reaction of hypersensitisation such that on further exposure to the substance or preparation, characteristic adverse effects are produced.”*

### Option 2: full implementation CLP

*“H 13 (\*) ‘Sensitising’: Wastes that contain substances which, showing a high frequency of occurrence in humans and/or a high potency in animals can be presumed to have the potential to produce significant sensitization in humans. Severity of reaction may also be considered.*

*or*

*showing a low to moderate frequency of occurrence in humans and/or a low to moderate potency in animals can be presumed to have the potential to produce sensitization in humans. Severity of reaction may also be considered.*

*But at least there is evidence in humans that the substance can lead to specific respiratory hypersensitivity or can lead to sensitization by skin contact in a substantial number of persons and/or*

*there are positive results from an appropriate animal test.”*

### Option 3 (French proposal)

*“Waste which contains one or more substances in such quantities that may cause hypersensitivity of the airways following inhalation of the substance or an allergic response following skin contact.”*

*CLP H statement: H317, H334*

### Option 4: deletion of H13 and inclusion into a potential H6 criterion (German proposal)

*This depends on the decision on H5/6 whether there is only one catch all H-criterion or two separated. In the latter case it is more likely that it will be included in a new H 5 consisting of STOT and Aspiration as H6 is intended to be a category named toxic.*

There has been support to delete H13 and include sensitising in H5/6. The German justification for deleting H13 was that sensitising human health effects are comparable to those of harmful substances. It was agreed that DE will elaborate this position more in detail to provide scientific proof for the proposed change.

AU supported an inclusion under H6 toxic with a limit value of one percent. This was supported by DE. FR only wanted to include sensitisers with the H statement H334.

A number of reasons has been presented why from a chemicals legislation point of view sensitising has a special position and is not comparable with acute effects or STOT and Aspiration. It was especially highlighted that the 2. ATP of the CLP to the adaption of scientific knowledge restructured the hazard criterion and even tightened the limit values for classification.

There has been a short discussion on the relevance of this criterion for wastes. Certain wastes that could be affected were mentioned (upholstered furniture, cement with chromates, detergents).

In this context FI raised the issue of specific provisions for certain substances laid down in Annex VI of CLP for specific substances. The example was brought up that not number 7 on the entry of Nickel limits the classification as sensitising of certain alloys: *“Alloys containing nickel are classified for skin sensitisation when the release rate of 0.5 µg Ni/cm<sup>2</sup>/week, as measured by the European Standard reference test method EN 1811, is exceeded. Alloys containing nickel are classified for skin sensitisation when the release rate of 0.5 µg Ni/cm<sup>2</sup>/week, as measured by the European Standard reference test method EN 1811, is exceeded.”*

So again this leads to the question whether substance specific provisions shall be considered first before more general provisions apply (this would then also apply for specific classification limits).

Option 4 was preferred

#### H5 STOT/Aspiration/Sensitation

*“Wastes which have a negative effects on human health following oral or dermal administration or inhalation exposure, which can cause specific organ toxicity or sensation either from a single or repeated exposure or which cause severe acute toxic effects following aspiration”*

<i>CLP Category (other criteria)</i>	<i>CLP H-statements limit values</i>	<i>Cut off Limits</i>	<i>Further comments</i>
STOT SE 1	370	1%	- Not additive
STOT SE 2	371	10%	- Not additive
STOT SE 3	335	20%	- Not additive
STOT RE 1	372	1%	- Not additive
STOT RE 2	373	10%	- Not additive
Asp. Cat 1	304	10%	- Σ c cat 1 ≥ 10%
Skin sens. 1 and 1b	317	1%	- Not additive (all physical states)
Skin sens. 1a	317	0.1%	- Not additive (all physical states)
Resp. sens. 1 and 1b	334	1%	- Not additive (solid, liquid)
Resp. sens. 1 and 1b	334	0.2%	- Not additive (gaseous)
Resp. sens. 1a	334	0.1%	- Not additive (all physical states)

COM indicated that deletion of the criterion “sensitising” would probably not be possible within a comitology procedure. COM will consult the legal service on this issue.

## 4.6 H 9 Infectious

<i>No.</i>	<i>Definition</i>	<i>source</i>
3	Wastes containing viable micro-organisms or their toxins which are known or reliably believed to cause disease in man or other living organisms	COM-Study
4	Wastes containing viable micro-organisms or their toxins which are known or reliably believed to	UK Presentation WG meeting

<i>No.</i>	<i>Definition</i>	<i>source</i>
	cause disease in man or animals	Jan. 2011
5	Wastes which are considered healthcare risk wastes due to their risk of infection to humans and animals	UK Presentation WG meeting Jan. 2011
6	Healthcare wastes which are known or clinically assessed to be at risk of causing infection to humans and animals	UK Presentation WG meeting Jan. 2011
7	Wastes containing micro-organisms [or their toxins] which under normal conditions are known or reliably believed to cause disease in healthy humans or animals	FI proposed after discussion WG March 2011
8	Waste which are considered healthcare waste due to their risk of infection to humans and animals and other living organism.	AU proposed prior to discussion WG March 2011
9	Wastes containing micro-organisms which are known or reliably believed to cause disease of medical significance in humans or animals	UK proposed after discussion in WG March 2011

At the beginning of the discussion on H 9 there has been a debate on the risk basis of this H-criterion that is inherent in infectious and which is not implemented in CLP which is purely hazard based. It was mentioned that the limit on which risk can be acceptable might vary between MS but that there is no absolute right or wrong.

So some MS formulated their preferences.

UK was in favour of including risk group 2 organisms because of the fact that 20 times more people die in the UK from infectious hazards than from chemical hazards.

FI was in favour to remove the word toxins from the definition and sees them covered by H5/6. It was not supporting the UK definition (proposal No. 9) that seemed too broad from their point of view.

AU agreed that the UK proposal probably is too broad and preferred a list of pathogens.

SE brought up a discussion whether infectious material if it is under adequate control (e.g. closed containers) will not be hazardous waste. This was rejected by UK as the potential infectious properties are still present. The reason was that hazardous properties of chemicals are also often controlled by enclosure but still lead to classification.

It was agreed among the members to consider the points of the discussion from the April meeting (see also Ökopol presentation on H 9) and the ones presented in the working paper and focus their position on the relevant elements of the definition (e.g. inclusion of certain terms, coverage) and on additional instruments of implementation like e.g. lists of pathogens. This will be the basis for an elevation of the different positions in order to ascertain majorities and to find compromises on very controversial positions in order to reach a decision on a draft for H 9.

## **5 H 12 WASTE WHICH RELEASES TOXIC OR VERY TOXIC GASES IN CONTACT WITH WATER, AIR OR AN ACID.**

**H12 is listed in Annex III to the 2008 Waste Framework Directive (WFD) as:**

*“Waste which releases toxic or very toxic gases in contact with water, air or an acid.”*

**Option 0:** *Keep the definition of H12 from WFD*

*H12 release of toxic or very toxic gas:*

*“Waste which releases toxic or very toxic gases in contact with water, air or an acid”*

**Option 1:** *Update the definition of H12 to a summary of that given in the CLP*

*H12 release of toxic or very toxic gas:*

*“Waste which releases toxic or very toxic gases in contact with water or an acid.”*

**Option 2:** *Update the definition of H12 to a summary of that given in the Basel convention*

*H12 release of toxic or very toxic gas::*

*“Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities..”*

There was no proposal up to the meeting for this H-criterion. Ökopol presented the situation and highlighted some problems with this criterion that were found in the Ökopol/Argus study. There are also some proposals in the presentation (see presentation Ökopol April 2011).

The following issues were discussed.

There was consensus about excluding CO<sub>2</sub> from an indicative list of covered gases. UK highlighted that this would be the case anyway as CO<sub>2</sub> is not classified as toxic.

DE proposed to merge H12 and H15 with the reasoning that there is a change from one substance to another. This was not supported in general as H15 does not cover the generation of new substances e.g. by decomposition but the leaching of existing substances from mixtures.

FR proposed to remove air from the existing definition. UK mentioned the relevance of moisture in the air and agreed because this will be covered by “contact with water” anyhow.

Some countries expressed sympathy for option 1.

The main issue regarding H12 is the lack of a specific test. Therefore, a test designed for the release of flammable gas is applied in various countries. There was a tendency to stick to this test until a more suitable test can be found. The threshold of 1 l per kg of substance/waste and hour should be kept until there is evidence for a need to change it. It has also been proposed to have a list of substances that are known to release gases and set specific limit concentrations for these.

## H12 release of toxic or very toxic gas:

“Waste which releases toxic or very toxic gases in contact with water or an acid.”

### CLP H-statements

(other criteria)

limit values

Further comments

EUH029

1 l/kg\*h

test according to CLP Annex II 2.12

EUH031

EUH032

**Table 1: Indicative list of substances and individual limit concentrations (not exhaustive)**

Substance	Hazard statement	Concentration limit (%)
Phosphorus pentasulphide	EUH029	0.1
3,5-dichloro-2,4-difluoro- benzoyl fluoride (DCDFBF)	EUH029	1.0
Metam-sodium	EUH031	0.5
Barium sulphide	EUH031	0.8
Barium polysulphides	EUH031	0.8
Calcium sulphide	EUH031	0.3
Calcium polysulphides	EUH031	0.3
Potassium sulphide	EUH031	0.5
Ammonium polysulphides	EUH031	0.3
Sodium sulphide	EUH031	0.4
Sodium polysulphides	EUH031	0.4
Sodium dithionite	EUH031	0.9
Sodium hypochlorite, solution % Cl active <sup>1</sup>	EUH031	2.9
Calcium hypochlorite % Cl active <sup>1</sup>	EUH031	0.6
Dichloroisocyanuric acid	EUH031	0.9
Dichloroisocyanuric acid, sodium salt of	EUH031	1.0
Sodium dichloroisocyanurate, dihydrate	EUH031	1.1
Trichloroisocyanuric acid	EUH031	0.7
Hydrogen cyanide, salts of (with the exception of complex cyanides such as ferrocyanides, ferricyanides and mercuric oxycyanide)	EUH032	0.2
Sodium fluoride	EUH032	0.2
Sodium azide	EUH032	0.3
Aluminium phosphide	EUH032	0.3
Trizinc diphosphide	EUH032	0.6
Calcium cyanide	EUH032	0.2
Cadmium cyanide	EUH032	0.4
Calcium phosphide	EUH029	0.4
Aluminium phosphide	EUH029	0.3
Magnesium phosphide	EUH029	0.3
Trizinc diphosphide	EUH029	0.6

## **6 H15**

Due to time constraints discussion of this topic was moved to the next meeting.

## **7 SPECIFIC CONCENTRATION LIMITS FOR POPS: DIOXINS / FURANS**

Due to time constraints discussion of this topic has been moved to the next meeting.

## **8 REVIEW OF THE ENTRIES OF THE LIST OF WASTE**

Ökopol gave a short summary of the status of proposals of the MS for new, amended and deleted entries of the LoW (see presentation). Most need for further development can be concluded from the feedback of the MS for the sections 16 and 20 of the LoW. Furthermore entries in section 15, 19, 18 and 7 have been major subjects to proposals of MS.

FI proposed not to change the 2 and 4 digit entries of the LoW but to concentrate on the 6 digit entries. If changes are done to the entries of the LoW links with other legislations must be taken into account (e.g. link between proximity and self sufficiency principle of the rWFD and section 20 of the LoW).

A number of Member States expressed their concerns because of the limited time to discuss the entries and preferred to prioritise discussions on the H criteria rather than on entries.

The link between the discussion on the H criteria and the entries of the LoW was highlighted and an agreed approach for certain H criteria was stressed as a prerequisite for discussion of certain entries of the LoW.

UK presented an overview of the proposals for the further development of the LoW. They are based on the principle that the structure of the list is not changed and some aligned at some “rules” like “Simple and short as possible”, “Minimise and merge” ““Form” use should be minimised – sludge etc.” “Absolute entry is preferred to mirror” and “Need clarity of absolute vs. mirror”. Exemplary sections of the LoW discussed have been 17, 16 and 7.

In the course of the discussion following the presentation made by the UK, DE accepted to elaborate on “mixtures” in section 17.



## **9 ANY OTHER BUSINESS**

none