COMMISSION REGULATION (EU) 2019/636

of 23 April 2019

amending Annexes IV and V to Regulation (EC) No 850/2004 of the European Parliament and of the Council on persistent organic pollutants

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC ([1]), and in particular Article 7(4)(a) and (5) and Article 14(2) and (4) thereof,

Whereas:

(1) Regulation (EC) No 850/2004 implements in the law of the Union the commitments set out in the Stockholm Convention on Persistent Organic Pollutants (hereinafter 'the Convention') approved on behalf of the Community by Council Decision 2006/507/EC ([2]), and in the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants approved on behalf of the Community by Council Decision 2004/259/EC ([3]).

(2) At the seventh meeting of the Conference of the Parties to the Convention from 4 to 15 May 2015, it was agreed to include pentachlorophenol and its salts and esters (hereinafter 'pentachlorophenol') in Annex A (elimination) to the Convention.

(3) In view of the amendment of the Convention, it is necessary to amend Annexes IV and V to Regulation (EC) No 850/2004, including pentachlorophenol in the annexes and indicating the corresponding concentration limits, in order to ensure that wastes containing pentachlorophenol are managed in accordance with the provisions of the Convention.

(4) The proposed concentration limits in Annexes IV and V to Regulation (EC) No 850/2004 have been set applying the same methodology that was used for establishing the limit values in previous amendments of Annexes IV and V ([4]). The proposed concentration limits are considered the most appropriate to ensure a high level of protection of human health and the environment in view of the destruction or irreversible transformation of pentachlorophenol.

(5) It is appropriate to provide for a sufficient period of time to allow companies and competent authorities to adapt to the new requirements.

(6) The measures provided for in this Regulation are in accordance with the opinion of the committee established by Article 39 of Directive 2008/98/EC of the European Parliament and of the Council ([5]),

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([1]) OJ L 158, 30.4.2004, p. 7.

([2]) Council Decision 2006/507/EC of 14 October 2004 concerning the conclusion, on behalf of the European Community, of the Stockholm Convention on Persistent Organic Pollutants (OJ L 209, 31.7.2006, p. 1).

([3]) Council Decision 2004/259/EC of 19 February 2004 concerning the conclusion, on behalf of the European Community, of the Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants (OJ L 81, 19.3.2004, p. 35).

([4]) Council Regulation (EC) No 1195/2006 of 18 July 2006 amending Annex IV to Regulation (EC) No 850/2004 of the European Parliament and of the Council on persistent organic pollutants (OJ L 217, 8.8.2006, p. 1), Council Regulation (EC) No 172/2007 of 16 February 2007 amending Annex V to Regulation (EC) No 850/2004 of the European Parliament and of the Council on persistent organic pollutants (OJ L 55, 23.2.2007, p. 1), Commission Regulation (EU) No 756/2010 of 24 August 2010 amending Regulation (EC) No 850/2004 of the European Parliament and of the Council on persistent organic pollutants as regards Annexes IV and V (OJ L 223, 25.8.2010, p. 20), Commission Regulation (EU) No 1342/2014 of 17 December 2014 amending Regulation (EC) No 850/2004 of the European Parliament and of the Council on persistent organic pollutants as regards Annexes IV and V (OJ L 363, 18.12.2014, p. 67) and Commission Regulation (EU) 2016/460 of 30 March 2016 amending Annexes IV and V to Regulation (EC) No 850/2004 of the European Parliament and of the Council on persistent organic pollutants (OJ L 80, 31.3.2016, p. 17).

([5]) 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).

HAS ADOPTED THIS REGULATION:

Article 1

Annexes IV and V to Regulation (EC) No 850/2004 are amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from 31 October 2019.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 April 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Annexes IV and V to Regulation (EC) No 850/2004 are amended as follows:

(1) in the table of Annex IV, the following row is added:

List of substances subject to waste management provisions set out in Article 7

Substance	CAS No	EC No	Concentration limit referred to in Article 7(4)(a)
'Pentachlorophenol and its salts and esters	87-86-5 and others	201-778-6 and others	100 mg/kg'

(2) in Part 2 of Annex V, the table is replaced by the following table:

'Wastes as classified in Commission Decision 2000/532/EC [1]		Maximum concentration limits of substances listed in Annex IV [2]	Operation
10	WASTES FROM THERMAL PROCESSES	Alkanes C10-C13, chloro (short-chain chlorinated paraffins) (SCCPs): 10 000 mg/kg; Aldrin: 5 000 mg/kg; Chlordane: 5 000 mg/kg; Chlordecone: 5 000 mg/kg; DDT (1,1,1-trichloro-2,2-bis (4-chlorophenyl) ethane): 5 000 mg/kg; Dieldrin: 5 000 mg/kg; Endosulfan: 5 000 mg/kg; Endrin: 5 000 mg/kg; Heptachlor: 5 000 mg/kg; Hexabromobiphenyl: 5 000 mg/kg; Hexabromocyclododecane [3]: 1 000 mg/kg; Hexachlorobenzene: 5 000 mg/kg; Hexachlorobutadiene: 1 000 mg/kg; Hexachlorocyclohexanes, including lindane: 5 000 mg/kg; Mirex: 5 000 mg/kg; Pentachlorobenzene: 5 000 mg/kg; Pentachlorophenol and its salts and esters: 1 000 mg/kg; Perfluorooctane sulfonic acid and its derivatives (PFOS) ($C_8F_{17}SO_2X$) (X = OH, Metal salt (O-M$^+$), halide, amide, and other derivatives including polymers): 50 mg/kg; Polychlorinated Biphenyls (PCB) [4]: 50 mg/kg; Polychlorinated dibenzo-p-dioxins and dibenzofurans: 5 mg/kg; Polychlorinated naphthalenes (*): 1 000 mg/kg; Sum of the concentrations of tetrabromodiphenyl ether ($C_{12}H_6Br_4O$), pentabromodiphenyl ether ($C_{12}H_5Br_5O$), hexabromodiphenyl ether ($C_{12}H_4Br_6O$) and heptabromodiphenyl ether ($C_{12}H_3Br_7O$): 10 000 mg/kg; Toxaphene: 5 000 mg/kg.	Permanent storage shall be allowed only when all the following conditions are met: (1) The storage takes place in one of the following locations: — safe, deep, under-ground, hard rock formations; — salt mines; — a landfill site for hazardous waste, provided that the waste is solidified or partly stabilised where technically feasible as required for classification of the waste in subchapter 19 03 of Decision 2000/532/EC. (2) The provisions of Council Directive 1999/31/EC [5] and Council Decision 2003/33/EC [6] were respected. (3) It has been demonstrated that the selected operation is environmentally preferable.
10 01	Wastes from power stations and other combustion plants (except 19)		
10 01 14 (*)	Bottom ash, slag and boiler dust from co-incineration containing hazardous substances		
10 01 16 (*)	Fly ash from co-incineration containing hazardous substances		
10 02	Wastes from the iron and steel industry		
10 02 07 (*)	Solid wastes from gas treatment containing hazardous substances		
10 03	Wastes from aluminium thermal metallurgy		
10 03 04 (*)	Primary production slags		
10 03 08 (*)	Salt slags from secondary production		
10 03 09 (*)	Black drosses from secondary production		
10 03 19 (*)	Flue-gas dust containing hazardous substances		
10 03 21 (*)	Other particulates and dust (including ball-mill dust) containing hazardous substances		
10 03 29 (*)	Wastes from treatment of salt slags and black drosses containing hazardous substances		

Wastes as classified in Commission Decision 2000/532/EC [1]		Maximum concentration limits of substances listed in Annex IV [2]	Operation
10 04	Wastes from lead thermal metallurgy		
10 04 01 (*)	Slags from primary and secondary production		
10 04 02 (*)	Dross and skimmings from primary and secondary production		
10 04 04 (*)	Flue-gas dust		
10 04 05 (*)	Other particulates and dust		
10 04 06 (*)	Solid wastes from gas treatment		
10 05	Wastes from zinc thermal metallurgy		
10 05 03 (*)	Flue-gas dust		
10 05 05 (*)	Solid waste from gas treatment		
10 06	Wastes from copper thermal metallurgy		
10 06 03 (*)	Flue-gas dust		
10 06 06 (*)	Solid wastes from gas treatment		
10 08	Wastes from other non-ferrous thermal metallurgy		
10 08 08 (*)	Salt slag from primary and secondary production		
10 08 15 (*)	Flue-gas dust containing hazardous substances		
10 09	Wastes from casting of ferrous pieces		
10 09 09 (*)	Flue-gas dust containing hazardous substances		
16	WASTES NOT OTHERWISE SPECIFIED IN THE LIST		
16 11	Waste linings and refractories		
16 11 01 (*)	Carbon-based linings and refractories from metallurgical processes containing hazardous substances		

Wastes as classified in Commission Decision 2000/532/EC [1]		Maximum concentration limits of substances listed in Annex IV [2]	Operation
16 11 03 (*)	Other linings and refractories from metallurgical processes containing hazardous substances		
17	CONSTRUCTION AND DEMOLITION WASTES (INCLUDING EXCAVATED SOIL FROM CONTAMINATED SITES)		
17 01	Concrete, bricks, tiles and ceramics		
17 01 06 (*)	Mixtures of, or separate fractions of concrete, bricks, tiles and ceramics containing hazardous substances		
17 05	Soil (including excavated soil from contaminated sites), stones and dredging spoil		
17 05 03 (*)	Soil and stones containing hazardous substances		
17 09	Other construction and demolition wastes		
17 09 02 (*)	Construction and demolition wastes containing PCB, excluding PCB containing equipment		
17 09 03 (*)	Other construction and demolition wastes (including mixed wastes) containing hazardous substances		
19	WASTES FROM WASTE MANAGEMENT FACILITIES, OFF-SITE WASTE WATER TREATMENT PLANTS AND THE PREPARATION OF WATER INTENDED FOR HUMAN CONSUMPTION AND WATER FROM INDUSTRIAL USE		
19 01	Wastes from incineration or pyrolysis of waste		
19 01 07 (*)	Solid wastes from gas treatment		

Wastes as classified in Commission Decision 2000/532/EC (1)		Maximum concentration limits of substances listed in Annex IV (2)	Operation
19 01 11 (*)	Bottom ash and slag containing hazardous substances		
19 01 13 (*)	Fly ash containing hazardous substances		
19 01 15 (*)	Boiler dust containing hazardous substances		
19 04	Vitrified waste and waste from vitrification		
19 04 02 (*)	Fly ash and other flue-gas treatment wastes		
19 04 03 (*)	Non-vitrified solid phase'		

(1) 2000/532/EC: Commission Decision 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).
(2) These limits apply exclusively to a landfill site for hazardous waste and do not apply to permanent underground storage facilities for hazardous waste, including salt mines.
(3) 'Hexabromocyclododecane' means hexabromocyclododecane, 1,2,5,6,9,10-hexabromocyclododecane and its main diastereoisomers: alpha- hexabromocyclododecane, beta- hexabromocyclododecane and gamma- hexabromocyclododecane.
(4) The calculation method laid down in European standards EN 12766-1 and EN 12766-2 shall apply.
(5) Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.7.1999, p. 1).
(6) Council Decision 2003/33/EC of 19 December 2002 establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of and Annex II to Directive 1999/31/EC (OJ L 11, 16.1.2003, p. 27).
(*) Any waste marked with an asterisk '*' is considered as hazardous waste pursuant to Directive 2008/98/EC and is subject to the provisions of that Directive.

The maximum concentration limit of polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD and PCDF) shall be calculated according to the following toxic equivalency factors (TEFs):

PCDD	TEF
2,3,7,8-TeCDD	1
1,2,3,7,8-PeCDD	1
1,2,3,4,7,8-HxCDD	0,1
1,2,3,6,7,8-HxCDD	0,1
1,2,3,7,8,9-HxCDD	0,1
1,2,3,4,6,7,8-HpCDD	0,01
OCDD	0,0003
PCDF	TEF
2,3,7,8-TeCDF	0,1
1,2,3,7,8-PeCDF	0,03
2,3,4,7,8-PeCDF	0,3
1,2,3,4,7,8-HxCDF	0,1
1,2,3,6,7,8-HxCDF	0,1

1,2,3,7,8,9-HxCDF	0,1
2,3,4,6,7,8-HxCDF	0,1
1,2,3,4,6,7,8-HpCDF	0,01
1,2,3,4,7,8,9-HpCDF	0,01
OCDF	0,0003