

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2020/1068

of 15 May 2020

amending Annexes I and V to Regulation (EU) No 649/2012 of the European Parliament and of the Council concerning the export and import of hazardous chemicals

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals ⁽¹⁾, and in particular points (a) and (c) of Article 23(4) thereof,

Whereas:

- (1) Regulation (EU) No 649/2012 implements the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade ⁽²⁾ ('the Rotterdam Convention').
- (2) By Implementing Regulations (EU) 2019/677 ⁽³⁾, (EU) 2019/989 ⁽⁴⁾, (EU) 2019/1100 ⁽⁵⁾, (EU) 2019/1090 ⁽⁶⁾,

⁽¹⁾ OJ L 201, 27.7.2012, p. 60.

⁽²⁾ OJ L 63, 6.3.2003, p. 29.

⁽³⁾ Commission Implementing Regulation (EU) 2019/677 of 29 April 2019 concerning the non-renewal of the approval of the active substance chlorothalonil, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011 (OJ L 114, 30.4.2019, p. 15).

⁽⁴⁾ Commission Implementing Regulation (EU) 2019/989 of 17 June 2019 concerning the non-renewal of approval of the active substance chlorpropham, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011 (OJ L 160, 18.6.2019, p. 11).

⁽⁵⁾ Commission Implementing Regulation (EU) 2019/1100 of 27 June 2019 concerning the non-renewal of approval of the active substance desmedipham, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011 (OJ L 175, 28.6.2019, p. 17).

⁽⁶⁾ Commission Implementing Regulation (EU) 2019/1090 of 26 June 2019 concerning the non-renewal of approval of the active substance dimethoate, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011 (OJ L 173, 27.6.2019, p. 39).

(EU) 2018/1532 ⁽⁷⁾, (EU) 2019/344 ⁽⁸⁾, (EU) 2018/1043 ⁽⁹⁾, (EU) 2018/1917 ⁽¹⁰⁾, (EU) 2018/1019 ⁽¹¹⁾, (EU) 2018/309 ⁽¹²⁾, (EU) 2018/1501 ⁽¹³⁾ and (EU) 2018/1914 ⁽¹⁴⁾, the Commission decided not to renew the approval of the substances chlorothalonil, chlorpropham, desmedipham, dimethoate, diquat, ethoprophos, fenamidone, flurtamone, oxasulfuron, propineb, pymetrozine and quinoxifen, respectively, as active substances under Regulation (EC) No 1107/2009 of the European Parliament and of the Council ⁽¹⁵⁾, with the effect that those substances are banned from all uses in the category 'pesticide' due to the absence of any other use in that category. Therefore, those substances should be added to the lists of chemicals in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012.

- (3) By Implementing Regulation (EU) 2018/1500 ⁽¹⁶⁾, the Commission decided not to renew the approval of the substance thiram as active substance under Regulation (EC) No 1107/2009, with the effect that that substance is banned from use in the subcategory 'pesticide in the group of plant protection products' as referred to in Regulation (EU) No 649/2012. Since thiram is only approved under Regulation (EU) No 528/2012 of the European Parliament and of the Council ⁽¹⁷⁾ for use in biocidal products for product-type 9, which fall in the subcategory 'other pesticide including biocides' as referred to in Regulation (EU) No 649/2012, virtually all use of that substance is prohibited at the level of the category 'pesticide'. Therefore, thiram is considered severely restricted at the level of the category 'pesticide' and thus should be added to the lists of chemicals in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012.

⁽⁷⁾ Commission Implementing Regulation (EU) 2018/1532 of 12 October 2018 concerning the non-renewal of approval of the active substance diquat, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011 (OJ L 257, 15.10.2018, p. 10).

⁽⁸⁾ Commission Implementing Regulation (EU) 2019/344 of 28 February 2019 concerning the non-renewal of approval of the active substance ethoprophos, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011 (OJ L 62, 1.3.2019, p. 7).

⁽⁹⁾ Commission Implementing Regulation (EU) 2018/1043 of 24 July 2018 concerning the non-renewal of approval of the active substance fenamidone, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011 (OJ L 188, 25.7.2018, p. 9).

⁽¹⁰⁾ Commission Implementing Regulation (EU) 2018/1917 of 6 December 2018 concerning the non-renewal of approval of the active substance flurtamone, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011 (OJ L 311, 7.12.2018, p. 27).

⁽¹¹⁾ Commission Implementing Regulation (EU) 2018/1019 of 18 July 2018 concerning the non-renewal of approval of the active substance oxasulfuron, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011 (OJ L 183, 19.7.2018, p. 14).

⁽¹²⁾ Commission Implementing Regulation (EU) 2018/309 of 1 March 2018 concerning the non-renewal of approval of the active substance propineb, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011 (OJ L 60, 2.3.2018, p. 16).

⁽¹³⁾ Commission Implementing Regulation (EU) 2018/1501 of 9 October 2018 concerning the non-renewal of approval of the active substance pymetrozine, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011 (OJ L 254, 10.10.2018, p. 4).

⁽¹⁴⁾ Commission Implementing Regulation (EU) 2018/1914 of 6 December 2018 concerning the non-renewal of approval of the active substance quinoxifen, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011 (OJ L 311, 7.12.2018, p. 17).

⁽¹⁵⁾ Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).

⁽¹⁶⁾ Commission Implementing Regulation (EU) 2018/1500 of 9 October 2018 concerning the non-renewal of approval of the active substance thiram, and prohibiting the use and sale of seeds treated with plant protection products containing thiram, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011 (OJ L 254, 10.10.2018, p. 1).

⁽¹⁷⁾ Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

- (4) By Implementing Regulation (EU) 2018/1865⁽¹⁸⁾, the Commission decided not to renew the approval of the substance propiconazole as active substance under Regulation (EC) No 1107/2009, with the effect that that substance is banned from use in the subcategory 'pesticide in the group of plant protection products'. That ban does not amount to a severe restriction of the use of the substance at the level of the category 'pesticide', considering that propiconazole is approved for several uses in the subcategory 'other pesticide including biocides'. Propiconazole has been approved for use in biocidal products of product-types 7, 8 and 9 under Regulation (EU) No 528/2012. Therefore, propiconazole should be added to the list of chemicals in Part 1 of Annex I to Regulation (EU) No 649/2012.
- (5) An application for renewal of the approval of clothianidin and thiamethoxam had been submitted, but the applicants withdrew that application after the adoption of the Implementing Regulations (EU) 2018/784⁽¹⁹⁾ and (EU) 2018/785⁽²⁰⁾, by which the Commission decided to amend the conditions of approval of the active substances clothianidin and thiamethoxam, respectively, under Regulation (EC) No 1107/2009. Since those approvals of clothianidin and thiamethoxam expired, the use of those substances is banned in the subcategory 'pesticide in the group of plant protection products'. That ban amounts to a severe restriction of the use of the substances at the level of the category 'pesticide', since virtually all use of clothianidin and thiamethoxam is prohibited as clothianidin and thiamethoxam are only approved for use in biocidal products of product-type 18 under Regulation (EU) No 528/2012 in the subcategory 'other pesticide including biocides'. Therefore, clothianidin and thiamethoxam should be added to the lists of chemicals in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012.
- (6) By Implementing Regulation (EU) 2018/783⁽²¹⁾, the Commission decided to amend the conditions of approval of the active substance imidacloprid under Regulation (EC) No 1107/2009, with the effect that the use of that substance is severely restricted in the subcategory 'pesticide in the group of plant protection products'. That severe restriction does not amount to a severe restriction of the use of the substance at the level of the category 'pesticide', considering that imidacloprid is approved for several uses in the subcategory 'other pesticide including biocides'. Imidacloprid has been approved for use in biocidal products of product-type 18 under Regulation (EU) No 528/2012. In addition, imidacloprid is used in veterinary medicinal products in accordance with Directive 2001/82/EC of the European Parliament and of the Council⁽²²⁾. Therefore, imidacloprid should be added to the list of chemicals in Part 1 of Annex I to Regulation (EU) No 649/2012.
- (7) By Implementing Regulation (EU) 2015/404⁽²³⁾, the Commission decided to extend the approval period of the active substance glufosinate under Regulation (EC) No 1107/2009, following an application for renewal of the approval of that active substance. Since that application has been withdrawn, glufosinate is no longer approved as active substance under Regulation (EC) No 1107/2009, with the effect that that substance is banned from all uses in the category 'pesticide' due to the absence of any other use in that category. It should therefore be added to the lists of chemicals in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012.
- (8) At its ninth meeting in May 2019, the Conference of the Parties to the Rotterdam Convention decided to include the substances phorate and hexabromocyclododecane in Annex III to that Convention, with the effect that those substances became subject to the Prior Informed Consent procedure under that Convention. Phorate should therefore be added to the lists of chemicals in Parts 1 and 3 of Annex I to Regulation (EU) No 649/2012. Hexabromocyclododecane is already listed in Annex V to Regulation (EU) No 649/2012 and thus banned for export. Therefore, it should be added to the list of chemicals in Part 3 of Annex I to that Regulation.

⁽¹⁸⁾ Commission Implementing Regulation (EU) 2018/1865 of 28 November 2018 concerning the non-renewal of the approval of the active substance propiconazole, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011 (OJ L 304, 29.11.2018, p. 6).

⁽¹⁹⁾ Commission Implementing Regulation (EU) 2018/784 of 29 May 2018 amending Implementing Regulation (EU) No 540/2011 as regards the conditions of approval of the active substance clothianidin (OJ L 132, 30.5.2018, p. 35).

⁽²⁰⁾ Commission Implementing Regulation (EU) 2018/785 of 29 May 2018 amending Implementing Regulation (EU) No 540/2011 as regards the conditions of approval of the active substance thiamethoxam (OJ L 132, 30.5.2018, p. 40).

⁽²¹⁾ Commission Implementing Regulation (EU) 2018/783 of 29 May 2018 amending Implementing Regulation (EU) No 540/2011 as regards the conditions of approval of the active substance imidacloprid (OJ L 132, 30.5.2018, p. 31).

⁽²²⁾ Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products (OJ L 311, 28.11.2001, p. 1).

⁽²³⁾ Commission Implementing Regulation (EU) 2015/404 of 11 March 2015 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances beflubutamid, captan, dimethoate, dimethomorph, ethoprophos, fipronil, folpet, formetanate, glufosinate, methiocarb, metribuzin, phosmet, pirimiphos-methyl and propamocarb (OJ L 67, 12.3.2015, p. 6).

- (9) Regulation (EU) 2017/852 of the European Parliament and of the Council ⁽²⁴⁾ prohibits the export of mercury, certain mixtures of metallic mercury with other substances, certain mercury compounds and certain mercury-added products. Those export bans should be reflected in Part 2 of Annex V to Regulation (EU) No 649/2012.
- (10) Regulation (EU) No 649/2012 should therefore be amended accordingly.
- (11) It is appropriate to provide for a reasonable period of time for interested parties to take the measures necessary to comply with this Regulation and for Member States to take the measures necessary for its implementation,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 649/2012 is amended as follows:

- (a) Annex I is amended in accordance with Annex I to this Regulation;
- (b) Annex V is amended in accordance with Annex II 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 1 September 2020.

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

Done at Brussels, 15 May 2020.

For the Commission
The President
Ursula VON DER LEYEN

⁽²⁴⁾ Regulation (EU) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury, and repealing Regulation (EC) No 1102/2008 (OJ L 137, 24.5.2017, p. 1).

ANNEX I

Annex I to Regulation (EU) No 649/2012 is amended as follows:

(1) in Part 1, in the table, the following entries are added:

Chemical	CAS No	Einecs No	CN code (***)	Subcategory (*)	Use limitation (**)	Countries for which no notification is required
Chlorothalonil (*)	1897-45-6	217-588-1	ex 2926 90 70	p(1)	b	
Chlorpropham (*)	101-21-3	202-925-7	ex 2924 29 70	p(1)	b	
Clothianidin (*)	210880-92-5	n.a.	ex 2934 10 00	p(1)	b	
Desmedipham (*)	13684-56-5	237-198-5	ex 2924 29 70	p(1)	b	
Dimethoate (*)	60-51-5	200-480-3	ex 2930 90 98	p(1)	b	
Diquat, including diquat dibromide (*)	2764-72-9 85-00-7	220-433-0 201-579-4	ex 2933 99 80	p(1)	b	
Ethoprophos (*)	13194-48-4	236-152-1	ex 2930 90 98	p(1)	b	
Fenamidone (*)	161326-34-7	n.a.	ex 2933 29 90	p(1)	b	
Flurtamone (*)	96525-23-4	n.a.	ex 2932 19 00	p(1)	b	
Glufosinate, including glufosinate-ammonium (*)	51276-47-2 77182-82-2	257-102-5 278-636-6	ex 2931 39 90	p(1)	b	
Imidacloprid	138261-41-3	n.a.	ex 2933 39 99	p(1)	sr	
Oxasulfuron (*)	144651-06-9	n.a.	ex 2935 90 90	p(1)	b	
Phorate (#)	298-02-2	206-052-2	ex 2930 90 98	p(1)	b	
Propiconazole	60207-90-1	262-104-4	ex 2934 99 90	p(1)	b	
Propineb (*)	12071-83-9 9016-72-2	235-134-0	ex 2930 20 00	p(1)	b	
Pymetrozine (*)	123312-89-0	n.a.	ex 2933 69 80	p(1)	b	
Quinoxifen (*)	124495-18-7	n.a.	ex 2933 49 90	p(1)	b	
Thiamethoxam (*)	153719-23-4	n.a.	ex 2934 10 00	p(1)	b	
Thiram (*)	137-26-8	205-286-2	ex 2930 30 00	p(1)-p(2)	b-sr'	

(2) in Part 2, in the table, the following entries are added:

Chemical	CAS No	Einecs No	CN code (***)	Category (*)	Use limitation (**)
Chlorothalonil	1897-45-6	217-588-1	ex 2926 90 70	p	b
Chlorpropham	101-21-3	202-925-7	ex 2924 29 70	p	b
Clothianidin	210880-92-5	n.a.	ex 2934 10 00	p	sr
Desmedipham	13684-56-5	237-198-5	ex 2924 29 70	p	b
Dimethoate	60-51-5	200-480-3	ex 2930 90 98	p	b
Diquat, including diquat dibromide	2764-72-9 85-00-7	220-433-0 201-579-4	ex 2933 99 80	p	b
Ethoprophos	13194-48-4	236-152-1	ex 2930 90 98	p	b
Fenamidone	161326-34-7	n.a.	ex 2933 29 90	p	b
Flurtamone	96525-23-4	n.a.	ex 2932 19 00	p	b
Glufosinate, including glufosinate-ammonium	51276-47-2 77182-82-2	257-102-5 278-636-6	ex 2931 39 90	p	b
Oxasulfuron	144651-06-9	n.a.	ex 2935 90 90	p	b
Propineb	12071-83-9 9016-72-2	235-134-0	ex 2930 20 00	p	b
Pymetrozine	123312-89-0	n.a.	ex 2933 69 80	p	b
Quinoxifen	124495-18-7	n.a.	ex 2933 49 90	p	b
Thiamethoxam	153719-23-4	n.a.	ex 2934 10 00	p	sr
Thiram	137-26-8	205-286-2	ex 2930 30 00	p	sr'

(3) in Part 3, in the table, the following entries are added:

Chemical	Relevant CAS number (s)	HS code Pure substance (**)	HS code Mixtures containing substance (**)	Category
Hexabromocyclododecane	25637-99-4, 3194-55-6, 134237-50-6, 134237-51-7, 134237-52-8 and others	2903.89		Industrial
Phorate	298-02-2	2930.90	3808.50	Pesticide'

ANNEX II

In Annex V to Regulation (EU) No 649/2012, the table of Part 2 is amended as follows:

(1) in entry 3, the following text is added:

Description of chemicals/article(s) subject to export ban	Additional details, where relevant (e.g. name of chemical, EC No, CAS No, etc.)
— Mercury (II) sulphate (HgSO ₄); — Mercury (II) nitrate (Hg(NO ₃) ₂).	CAS RNs 7783-35-9, 10045-94-0 EC Nos 231-992-5, 233-152-3;

(2) the following entries are added:

No	Description of chemicals/article(s) subject to export ban	Additional details, where relevant (e.g. name of chemical, EC No, CAS No, etc.)
5	Compact fluorescent lamps (CFLs) for general lighting purposes: (a) CFL.i ≤ 30 watts with a mercury content exceeding 2,5 mg per lamp burner; (b) CFL.ni ≤ 30 watts with a mercury content exceeding 3,5 mg per lamp burner.	
6	The following linear fluorescent lamps for general lighting purposes: (a) Triband phosphor < 60 watts with a mercury content exceeding 5 mg per lamp; (b) Halophosphate phosphor ≤ 40 watts with a mercury content exceeding 10 mg per lamp.	
7	High pressure mercury vapour lamps for general lighting purposes.	
8	The following mercury-added cold cathode fluorescent lamps and external electrode fluorescent lamps for electronic displays: (a) short length (≤ 500 mm) with mercury content exceeding 3,5 mg per lamp; (b) medium length (> 500 mm and ≤ 1 500 mm) with mercury content exceeding 5 mg per lamp; (c) long length (> 1 500 mm) with mercury content exceeding 13 mg per lamp.	