



2021/0340(COD)

21.3.2022

COMPROMISE AMENDMENTS

1 - 4

Draft report

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(PE703.218v02-00)

Amending Annexes IV and V to Regulation (EU) 2019/1021 of the European Parliament and of the Council on persistent organic pollutants

Proposal for a regulation

(COM(2021)0656 – C9-0396/2021 – 2021/0340(COD))

Amendment 1

EPP, S&D, Renew, Greens/EFA, The Left

Compromise amendment replacing Amendments 10, 26, 27, 28

Proposal for a regulation

Article 1 a (new)

Text proposed by the Commission

Amendment

Article 1 a

“The Commission shall assess whether it would be appropriate to amend the Directive 2008/98/EC on waste or Commission Decision 2014/955/EU^{1a}, or both, to recognize that waste containing any persistent organic pollutants exceeding the concentration limits indicated in Annex IV to Regulation (EU) 2019/1021 is to be classified as hazardous, and if appropriate, based on the assessment and not later than 18 months after entry into force of this legislation, put forward a legislative proposal to amend the Directive or amend the Decision, or both, accordingly.

^{1a} ***Commission Decision of 18 December 2014 amending Decision 2000/532/EC on the list of waste pursuant to Directive 2008/98/EC***

</Original>

Amendment 2 Annex IV: EXISTING and NEW substances
EPP, S&D, Renew, Greens/EFA, The Left
 Compromise amendment replacing Amendments 5-9, 30-50

Proposal for a regulation

Annex I – paragraph 1 – point 1 – point a – table

Regulation (EU) 2019/1021

Annex IV – table

<i>Text proposed by the Commission</i>			
‘Pentachlorophenol, its salts and esters	87-86-5 and others	201-778-6 and others	100 mg/kg
Dicofol	115-32-2	204-082-0	50 mg/kg
Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds	335-67-1 and others	206-397-9 and others	1 mg/kg
			(PFOA and its salts),
			40 mg/kg
			(PFOA -related compounds)’
<i>Amendment</i>			
‘Pentachlorophenol (PCP), its salts and esters	87-86-5 and others	201-778-6 and others	100 mg/kg
Dicofol	115-32-2	204-082-0	50 mg/kg
Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds	335-67-1 and others	206-397-9 and others	0,1 mg/kg
			(PFOA and its salts),
			20 mg/kg
			(sum of PFOA-related compounds)’
Perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds	355-46-4 and others	355-46-4 and others	0,1 mg/kg
			(PFHxS and its salts),

			20 mg/kg
			(PFHxS-related compounds)'

Proposal for a regulation

Annex I – paragraph 1 – point 1 – point b – table

Regulation (EU) 2019/1021

Annex IV – table

<i>Text proposed by the Commission</i>			
'Alkanes C10-C13, chloro (short-chain chlorinated paraffins) (SCCPs)	85535-84-8	287-476-5	1 500 mg/kg
<i>Amendment</i>			
'Alkanes C10-C13, chloro (short-chain chlorinated paraffins) (SCCPs)	85535-84-8	287-476-5	420 mg/kg

Proposal for a regulation

Annex I – paragraph 1 – point 1 – point c – table

Regulation (EU) 2019/1021

Annex IV – table

<i>Text proposed by the Commission</i>			
Tetrabromodiphenyl ether C ₁₂ H ₆ Br ₄ O	40088-47-9 and others	254-787-2 and others	Sum of the concentrations of tetrabromodiphenyl ether, pentabromodiphenyl ether, hexabromodiphenyl ether, heptabromodiphenyl ether and decabromodiphenyl ether:
Pentabromodiphenyl ether C ₁₂ H ₅ Br ₅ O	32534-81-9 and others	251-084-2 and others	
Hexabromodiphenyl ether C ₁₂ H ₄ Br ₆ O	36483-60-0 and others	253-058-6 and others	
Heptabromodiphenyl ether C ₁₂ H ₃ Br ₇ O	68928-80-3 and others	273-031-2 and others	
Bis(pentabromophenyl) ether (decabromodiphenyl ether; decaBDE) C ₁₂ Br ₁₀ O	1163-19-5 and others	214-604-9 and others	

			(a) until [OP, please introduce the date of the day before the date in the following point], 500 mg/kg
			(b) from [OP, please introduce the date of 5 years after the date of entry into force of this Regulation], 200 mg/kg or, if higher, the sum of the concentration of those substances where they are present in mixtures or articles, as set out in Annex I, fourth column, point 2 for the substances tetrabromodiphenyl ether, pentabromodiphenyl ether, hexabromodiphenyl ether, heptabromodiphenyl ether and decabromodiphenyl ether.'
<i>Amendment</i>			
Tetrabromodiphenyl ether C ₁₂ H ₆ Br ₄ O	40088-47-9 and others	254-787-2 and others	Sum of the concentrations of tetrabromodiphenyl ether C₁₂H₆Br₄O , pentabromodiphenyl ether C₁₂H₅Br₅O , hexabromodiphenyl ether C₁₂H₄Br₆O , heptabromodiphenyl ether C₁₂H₃Br₇O and decabromodiphenyl ether C₁₂Br₁₀O :
Pentabromodiphenyl ether C ₁₂ H ₅ Br ₅ O	32534-81-9 and others	251-084-2 and others	
Hexabromodiphenyl ether C ₁₂ H ₄ Br ₆ O	36483-60-0 and others	253-058-6 and others	
Heptabromodiphenyl ether C ₁₂ H ₃ Br ₇ O	68928-80-3 and others	273-031-2 and others	
Bis(pentabromophenyl) ether (decabromodiphenyl ether; decaBDE)	1163-19-5 and others	214-604-9 and others	

C12Br10O			
			(a) until [OP, please introduce the date of the day before the date in the following point], 200 mg/kg <i>The Commission shall review that concentration limit and shall, where appropriate and in accordance with the Treaties, adopt a legislative proposal to lower that value no later than [OP, please introduce the date of 5 years after the date of entry into force of this Regulation].</i>
			<i>(b) deleted</i>

Proposal for a regulation

Annex I – paragraph 1 – point 1 – point d – table

Regulation (EU) 2019/1021

Annex IV – table

<i>Text proposed by the Commission</i>			
‘Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/PCDF) and dioxin-like polychlorinated biphenyls (dl-PCBs)			5 µg/kg⁽²⁾
⁽²⁾ The limit is calculated as the sum of PCDD, PCDF and dl-PCBs according to the toxic equivalency factors (TEFs) set out in Part 2, in the third subparagraph, in the table, of Annex V.’			
<i>Amendment</i>			
‘Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/PCDF) and dioxin-like			1 µg/kg⁽²⁾

polychlorinated biphenyls (dl-PCBs)			
⁽²⁾ The limit is calculated as the sum of PCDD, PCDF and dl-PCBs according to the toxic equivalency factors (TEFs) set out in Part 2, in the third subparagraph, in the table, of Annex V.'			

Proposal for a regulation

Annex I – paragraph 1 – point 1 – point e – table

Regulation (EU) 2019/1021

Annex IV – table

<i>Text proposed by the Commission</i>			
'Hexabromocyclodo decane' ⁽⁴⁾	25637-99-4, 3194-55-6, 134237-50-6, 134237-51-7, 134237-52-8	247-148-4 221-695-9	500 mg/kg
<i>Amendment</i>			
'Hexabromocyclodo decane' ⁽⁴⁾	25637-99-4, 3194-55-6, 134237-50-6, 134237-51-7, 134237-52-8	247-148-4 221-695-9	(a) until [OP, please introduce the date of the day before the date in the following point], 200 mg/kg
			The Commission shall review that concentration limit and shall, where appropriate and in accordance with the Treaties, adopt a legislative proposal to lower that value to 100 mg / kg no later than [OP, please introduce the date of 5 years after the date of entry into force of this Regulation].

Amendment 3

EPP, S&D, Renew, Greens/EFA, The Left

Compromise amendment replacing Amendments 51, 52

Proposal for a regulation

Annex I – paragraph 1 – point 1 – point a – table

Regulation (EU) 2019/1021

Text proposed by the Commission

Amendment

Perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds: 50 mg/kg (PFHxS and its salts), 2 000 mg/kg (PFHxS-related compounds).

Amendment 4

EPP, S&D, Renew, Greens/EFA, The Left

Compromise amendment replacing Amendments 1- 4, 11-18, 20, 23 (Part 1)

Proposal for a regulation

Regulation (EU) 2019/1021

Recital 2

Text proposed by the Commission

Amendment

(2) At the seventh meeting of the Conference of the Parties to the Convention, held from 4 to 15 May 2015, it was agreed to include pentachlorophenol, its salts and esters ('pentachlorophenol') in Annex A to the Convention. At the ninth meeting of the Conference of the Parties to the Convention, held from 29 April to 10 May 2019, it was agreed to include dicofol as well as perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds in Annex A to the Convention. In view of those amendments to the Convention and to ensure that waste containing those substances is managed in accordance with the provisions of the Convention, it is necessary to also amend Annexes IV and V to Regulation (EU) 2019/1021 by including pentachlorophenol, dicofol and perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds in the Annexes and indicating their corresponding concentration limits.

(2) At the seventh meeting of the Conference of the Parties to the Convention, held from 4 to 15 May 2015, it was agreed to include pentachlorophenol, its salts and esters ('pentachlorophenol') in Annex A to the Convention. At the ninth meeting of the Conference of the Parties to the Convention, held from 29 April to 10 May 2019, it was agreed to include dicofol as well as perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds in Annex A to the Convention. In view of those amendments to the Convention and to ensure that waste containing those substances is managed in accordance with the provisions of the Convention, it is necessary to also amend Annexes IV and V to Regulation (EU) 2019/1021 by including pentachlorophenol, dicofol and perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds in the Annexes and ***also*** indicating their corresponding concentration limits.

Or. en

Proposal for a regulation

Regulation (EU) 2019/1021

Recital 3

Text proposed by the Commission

(3) Pentachlorophenol had been previously listed in Annexes IV and V to Regulation (EC) No 850/2004 of the European Parliament and of the Council²³ by Commission Regulation (EU) 2019/636²⁴, with an Annex IV value of 100 mg/kg and an Annex V value of 1 000 mg/kg. Regulation (EC) No 850/2004 was repealed by Regulation (EU) 2019/1021, but pentachlorophenol was unintentionally omitted from that Regulation. It is therefore necessary to amend Annexes IV and V to Regulation (EU) 2019/1021 to include pentachlorophenol.

²³ 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 (OJ L 158, 30.4.2004, p. 7).

²⁴ 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 (OJ L 109, 24.4.2019, p. 6).

Amendment

(3) Pentachlorophenol had been previously listed in Annexes IV and V to Regulation (EC) No 850/2004 of the European Parliament and of the Council²³ by Commission Regulation (EU) 2019/636²⁴, with an Annex IV value of 100 mg/kg and an Annex V value of 1 000 mg/kg. Regulation (EC) No 850/2004 was repealed by Regulation (EU) 2019/1021, but pentachlorophenol was unintentionally omitted from that Regulation. It is therefore necessary to amend Annexes IV and V to Regulation (EU) 2019/1021 to **now** include pentachlorophenol.

²³ 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 (OJ L 158, 30.4.2004, p. 7).

²⁴ 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 (OJ L 109, 24.4.2019, p. 6).

Or. en

Proposal for a regulation
Regulation (EU) 2019/1021
Recital 4

Text proposed by the Commission

(4) Annexes IV and V to Regulation (EU) 2019/1021 already contain concentration limits for the following

Amendment

(4) Annexes IV and V to Regulation (EU) 2019/1021 already contain concentration limits for the following

substances or substance groups: a) the sum of the concentrations of tetrabromodiphenyl ether, pentabromodiphenyl ether, hexabromodiphenyl ether, heptabromodiphenyl ether and decabromodiphenyl ether (with the exception of the latter, which is not listed in Annex V to that Regulation); b) Hexabromocyclododecane; c) Alkanes C10-C13, chloro (short-chain chlorinated paraffins) (SCCPs); and d) Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/PCDF). Pursuant to Article 15(2) of Regulation (EU) 2019/1021, it is appropriate to amend the concentration limits in Annex IV for those substances to adapt their limit values to scientific and technical progress. To be consistent with the list of polybrominated diphenyl ethers (PBDEs) listed in Annex IV to Regulation (EU) 2019/1021, the substance decabromodiphenyl ether should be included among the PBDEs listed in the third column of Annex V to that Regulation.

substances or substance groups: a) the sum of the concentrations of tetrabromodiphenyl ether, pentabromodiphenyl ether, hexabromodiphenyl ether, heptabromodiphenyl ether and decabromodiphenyl ether (with the exception of the latter, which is not listed in Annex V to that Regulation); b) Hexabromocyclododecane; c) Alkanes C10-C13, chloro (short-chain chlorinated paraffins) (SCCPs); and d) Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/PCDF). Pursuant to Article 15(2) of Regulation (EU) 2019/1021, it is appropriate to amend the concentration limits in Annex IV for those substances to adapt their limit values **according** to scientific and technical progress. To be consistent with the list of polybrominated diphenyl ethers (PBDEs) listed in Annex IV to Regulation (EU) 2019/1021, the substance decabromodiphenyl ether should be included among the PBDEs listed in the third column of Annex V to that Regulation.

²³ 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 (OJ L 158, 30.4.2004, p. 7).

²⁴ 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 (OJ L 109, 24.4.2019, p. 6).

Or. en

Proposal for a regulation
Regulation (EU) 2019/1021
Recital 5a

Text proposed by the Commission

Amendment

(5 a) Perfluorohexane sulfonic acid

(PFHxS), its salts and PFHxS-related compounds have been proposed by the Persistent Organic Pollutants Review Committee (POPRC) for listing under Annex A of the Stockholm Convention without specific exemptions^{5a} after completing the risk profile and risk management evaluation for those substances. A decision to include PFHxS, its salts and PFHxS-related compounds is envisaged to take place in Stockholm Convention COP-10, which was initially scheduled in July 2021, and is now scheduled to take place in June 2022 as a result of the negative evolution in many European countries of the COVID-19 pandemic. With respect to the objectives of the Convention, it is therefore appropriate, based on the current impact assessment^{5b} and to ensure that waste containing those substances is managed in accordance with the provisions of the Convention, to already amend Annexes IV and V to Regulation (EU) 2019/1021 by including perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds in the Annexes and indicating their corresponding concentration limits. The Commission should reflect the changes to Annex IV and V in other Annexes of the Regulation (EU) 2019/1021 to ensure consistency.

Proposal for a regulation
Regulation (EU) 2019/1021
Recital 6

Text proposed by the Commission

(6) The proposed concentration limits

Amendment

(6) The proposed concentration limits

in Annexes IV and V to Regulation (EU) 2019/1021 have been set applying the same methodology that was used to establish the concentration limits in previous amendments of Annexes IV and V to Regulation (EC) No 850/2004. The proposed concentration limits should achieve the objective of a high level of protection of human health and the environment associated to the destruction or irreversible transformation of the substances concerned. Those limits should also take into consideration the broader policy objective of achieving **a climate-neutral and** circular economy, enshrined in the European Green Deal²⁶.

in Annexes IV and V to Regulation (EU) 2019/1021 have been set applying the same methodology that was used to establish the concentration limits in previous amendments of Annexes IV and V to Regulation (EC) No 850/2004. The proposed concentration limits should ***be underpinned by the precautionary principle as set forth in the Treaty on the Functioning of the European Union (TFEU) and aim to eliminate, where feasible, the release of POPs into the environment, in order to*** achieve the objective of a high level of protection of human health and the environment associated to the destruction or irreversible transformation of the substances concerned. Those limits should also take into consideration the broader policy objective of achieving ***the zero-pollution ambition for a toxic-free environment, increasing recycling, reducing Green House Gas (GHG), developing non-toxic material cycles where banned substances should not be reintroduced on the EU market through recycling activities, and a*** circular economy, enshrined in the European Green Deal²⁶.

Proposal for a regulation
Regulation (EU) 2019/1021
Recital 6a (new)

Text proposed by the Commission

Amendment

(6a) The concentration limits in Annexes IV and V to Regulation (EU) 2019/1021 should be coherent and contribute to the implementation of the communication of the Commission of 14 October 2020 entitled ‘Chemicals Strategy for Sustainability - Towards a Toxic-Free Environment’ that proposes a comprehensive set of actions to address

the use of and contamination with PFAS.

Proposal for a regulation
Regulation (EU) 2019/1021
Recital 6b (new)

Text proposed by the Commission

Amendment

(6 b) To prevent mixing of contaminated waste with other waste or materials, ensure better traceability and effective treatment of waste containing persistent organic pollutants, there is a need to avoid inconsistency between the waste containing persistent organic pollutants incorporated in Regulation (EC) No 850/2004, now repealed by Regulation (EU) 2019/1021, and those incorporated thereafter. The Commission should therefore assess whether it would be appropriate to recognize waste exceeding any of the concentration limits indicated in Annex IV to Regulation (EU) 2019/1021 as hazardous and, if appropriate, amend the Directive 2009/98/EC on waste or Decision 2014/955/EU on the list of waste, or both, accordingly;