



Brussels, 10.11.2023

DRAFT AGENDA

**29th Meeting of the Competent Authorities for Regulation (EU)
2019/1021 on Persistent Organic Pollutants**

29 November 2023

Time: 11:30 – 18:00

Venue: online meeting via WebEx

WEDNESDAY 29 NOVEMBER			
AGENDA ITEM	DOC	ACTION	TIME
1. Adoption of the Agenda	CA 11/2023/01	Approval	11:30 – 11:35
■■■ requested a discussion on the interpretation of Article 4.2 under AOB in the closed session			
2. Adoption of the Summary Record of the 28 th meeting	CA 11/2023/02	Approval	11:35 – 11:40
■■■ on nomination of D4, 5 and 6, asked the COM to clarify that the support for moving forward was expressed by ■■■ and not by the ■■■ industry ■■■ on deca-BDE asked the COM to clarify that their inquiry pertained to the postponement of the review of the ROHS directive. This includes aligning the limit value, which remains at 1000 ppm for Electrical and Electronic Equipment (EEE), while the limit for the sum of POP-BDEs in the POP regulation is set at 500 ppm. ■■■ emphasized that they had not received a response to their query.			
3. Amendment of the Annex I entry on HBCDD: revision of the UTC	CA 11/2023/03 CA 11/2023/03-A	Information	11:40 – 11:45
Taking into account the objective of the POPs Regulation as well as the fact that - the solvent-based recycling technology already in use for the recycling of construction and demolition waste into polystyrene pellets, which can be used for new XPS or EPS, is relatively young, and additional data and information will be generated through its further implementation and upscaling, allowing further improvements to the process and providing a more solid evidence base for decision making; - there is no analytical method available that is validated for the required low levels of bromine that would enable verifying compliance with HBCDD limits significantly lower than the current one, thus creating challenges for enforcement authorities;			

- the alternative to recycling - should it become economically unviable due to too a stringent HBCDD UTC limit value – will in most cases be incineration in an advanced solid waste incinerator or, to some extent, landfill disposal, leading to circumstances in which HBCDD or its combustion products may leak into the environment. This runs counter to the objective of preserving resources and enhancing secondary material markets, thus contributing to a more circular economy,

the Commission proposes the following:

- the UTC value is lowered from 100 mg/kg to 75 mg/kg for all uses, except for the use of recycled polystyrene in the production of EPS and XPS insulation material for use in buildings or civil engineering works, for which the limit is maintained at 100 mg/kg, and
- by 1 January 2026, both UTC values need to be reviewed based on the available technical and scientific information, in particular information related to analytical methods and limitations. For the review of the UTC for recycled EPS and XPS, data and information obtained through the further implementation of traditional recycling and innovative solvent-based recycling processes shall also be taken into account.

No comments were provided by MS.

4. Amendment of the Annex I entry on PBDEs: revision of the UTC	CA 11/2023/04	Discussion	11:45 – 12:15
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The abovementioned original concentration limit of 1000 mg/kg in Annex IV for the sum of the concentrations of the relevant PBDEs in waste has recently been lowered to 500 mg/kg. From 30 December 2025 until 29 December 2027, the limit value is further reduced to 350 mg/kg, and to 200 mg/kg from 30 December 2027 onwards. The concentration limits of 350 mg/kg and 200 mg/kg only apply if the Annex I UTC limit value for PBDEs for their presence in mixtures or articles is not higher, in which case that higher value applies for Annex IV.

The majority of the PBDE containing products placed on the EU market are recycled products:

- o Since the manufacture and import of PBDEs in the EU are prohibited according to Article 3 of the POPs Regulation, virgin products containing PBDE cannot be produced in the EU.
- o Virgin mixtures and articles containing (unintentional) PBDE can be imported into the EU. It may be expected that the PBDE content in such products is generally much lower than the current Annex I UTC limit value of 500 ppm as it concerns unintentionally added PBDEs.
- o There are some exemptions in Annex I, specifically for PBDE in EEE (1000 ppm) and for decaBDE in several other products (air crafts, spare parts for motor vehicles). These are virgin products, but they are not the subject of our discussion as we are not amending these exemptions through the delegated act under discussion. The discussion on a UTC limit value is essentially a discussion revolving around the question on eliminating POPs whilst taking into account the effects on a circular economy.
- o For substances listed in Annex I to the POPs Regulation, the objective is, taking into account, in particular, the precautionary principle, to protect human health and the environment from POPs by prohibiting them.
- o The PBDE content in waste has been projected to decrease naturally over time. The Annex IV content limits are in line with the forecasted decrease in PBDE concentrations, meaning that the amended Annex IV content limits do not impose any significant costs or changes on waste operators.
- o The peer reviewed article on the content of halogenated flame retardants in several types of waste in Ireland concluded that with a PBDE content limit of 200 ppm and 100 ppm, the non-recyclable fraction would increase from 3.1% (at a content limit of 1000 ppm) to 4.9 and 5.6%, respectively, under current circumstances (i.e. not taking into account any extrapolation as to the future ‘natural’ decline in PBDE concentrations in waste).

o In order to establish a balance between the objective of eliminating POPs and a circular economy, the Commission sees two possible approaches:

1. Approach aiming at creating a PBDE-free market for consumer products

o For products for the general public or products that can be used by the general public: UTC limit value of 10 ppm

o For other products: UTC limit value as of entry into force of the delegated act, UTC limit value of 350 ppm as of 30 December 2025 and 200 ppm as of 30 December 2027 (i.e. in line with Annex IV content limits)

2. Approach taking into account recycling

o For PBDE-containing recycle mixtures: UTC limit value of 500 ppm as of entry into force, 350 ppm as of 30 December 2025 and 200 ppm as of 30 December 2027 (i.e. in line with Annex IV content limits)

o For mixtures and articles made from or containing PBDE-containing recycle: 250 ppm as of entry into force, 175 ppm as of 30 December 2025 and 100 ppm as of December 2027 (50% recycle in mixtures or articles + same timeline as Annex IV)

o For mixtures and articles: UTC limit value of 10 ppm

Closed session:

■ will provide written comments on the two approaches. Following a request by ■, COM confirmed that the proposed limit in option 1 for other products is 500 ppm as of the entry into force. Regarding enforcement, ■ believes we should seek the opinion of the ECHA Forum, as we might encounter difficulties in distinguishing virgin articles from articles made from recycle if there is no labeling obligation. COM recognized that option 2 creates an additional burden for inspectors.

■ expressed support for aligning Annex IV and inquired whether other mixing concentrations, such as 60% recycle, were considered in option 2. COM responded that if the concentration of recycle is higher, the set limit might not be met.

■ supported ■'s concern regarding enforcement, stating that dilution is not a viable way forward.

Written comments are welcome by 15/01/2024

5. Amendment of the Annex I entry on PCBs: specification of a UTC

CA 11/2023/05

Discussion

12:15 – 12:35

The absence of a UTC limit value in the POPs Regulation means that no presence of unintentional PCB is allowed, yet it appears that this prohibition is not complied with. Furthermore, industry does not deny that it is possible to reduce PCB content, but merely claims that 'possibilities to reduce PCBs are highly dependent on specific characteristics of the production process of each individual company'. Although the presence of PCB is currently not allowed and it should have been eliminated, a certain amount of time will be allowed for industry to step up their efforts to reduce unintentional PCB content in relevant products, but at some point the objective of eliminating (virtually all) PCB should be achieved, through reducing PCB content, through the identification and use of alternatives and/or through a cease of the use of PCB containing organic pigments.

The COM's proposal is as follows:

- **Identification: CAS = 1336-36-3 and others; EC = 215-648-1 and others, as is currently the case in Annex I and Annex IV to the POPs Regulation,**

- **UTC limit value: 0.1 ppm**

- **Derogation for organic pigments: 25 ppm upon entry into force; 10 ppm 3 years after entry into force; 0.1 ppm 6 years after entry into force**

- **Concentration determination methods: no specification in legal text but listing in First Inventory of Analytical Methods notified for the control of substances in Annex I and Annex IV of the POPs Regulation developed by ECHA's Forum.**

■ emphasized that, based on data received from the ■ pigment sector, a limit of 10 ppm is feasible and has been successfully implemented for several years. ■ support a temporary derogation for organic pigments with a 10 ppm limit for total PCBs, including a review clause three years after entry into force. Concerning the general or default UTC limit value, we have proposed a stepwise approach. Given the limit of quantification of standard methods and the variation in limits applied by MS (ranging from 0.1 to 5 ppm), ■ is open in supporting a limit of 5 ppm for total PCBs upon entry into force and a subsequent reduction to 1 ppm for total PCBs three years after entry into force. We have also inquired about the timing for the submission of info on analytical methods, as well as when this inventory prepared by ECHA will be ready. No answer was provided, but this isn't surprising given that the discussion on UTC is still ongoing.

■ emphasized that the current proposal is already generous, highlighting that the pigment sector had 19 years (since 2004) to achieve compliance. ■ will investigate if there are any analytical constraints for a limit at 0.1 ppm. Additionally, ■ requested the COM to verify the proposal's consistency with other EU chemicals regulations that may have higher limit values (e.g. Food regulation). ■ suggested considering the three end-of-waste regulations adopted by the COM, even if they refer to limit values set in Annex IV.

The COM clarified that there is no hierarchy among EU regulations and expressed a willingness to check if any amendments to other regulations or additional exemptions are needed in the POP regulation. The COM concluded that extra consideration regarding articles containing organic pigments is also necessary.

Written comments are welcome by 15/01/2024

6. Amendment of the Annex I entry on PFOS : revision of the UTC and deletion of a specific exemption	CA 11/2023/06 CA 11/2023/06-A CA 11/2023/06-B	Discussion	12:35 – 12:50
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In conclusion, the Commission proposed

- to align the wording of the substance identification for the entry of PFOS with the one for PFOA and PFHxS;
- to introduce a UTC limit value for PFOS and its salts of 0,025 mg/kg in substances, mixtures and articles (in line with the one for PFOA and PFHxS);
- to reduce the UTC limit value for PFOS related compounds in substances, mixtures and articles to 1 mg/kg, in line with the value for PFOA and PFHxS related compounds;
- to delete point 5.

After the 28th POP CAs meeting, some CAs supported the COM proposal and commented on the need to have an indicative list of substances covered by the PFOS entry, as it is the case for PFOA and PFHxS. A CA provided the indicative list, which was included in the Annex to a draft document prepared for the Stockholm Convention nomination (Annex C). It should however be discussed if the list needs an update.

No changes were suggested on the draft Act and Annex discussed during the 28th POP CAs meeting during the commenting period.

The public consultation foreseen before the adoption of the delegated act will allow stakeholders to comment on the proposed new UTC limit values, namely on the need for different values for some

specific substance, mixture or article. To ensure broader information input on the public consultation, it will be announced also on ECHA's website.

Industry (WFVD) stressed that a transitionnal period is also needed for FFF - aligned with the PFOA and PFHxS entries. Relevant proposal for the COM.

7. Listing of methoxychlor in Annex I	CA 11/2023/07 CA 11/2023/07-A CA 11/2023/07-B	Discussion	12:50 – 13:00
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NO comments were received after the 28th POP CAs meeting on the draft Act and Annex.

Concerning the **UTC limit value**, as no information is available, COM proposes the value of 10 ppb (**0,01 mg/kg**). This value corresponds to the EU MRL (Maximum Residue Level) for methoxychlor and is based on the default lowest limit of analytical determination. A CA commented in writing to refer to measured residuals in food to set the UTC. The most recent EFSA assessment¹ did not report any quantifiable presence of methoxychlor in food.

COM will submit the drafts Act and Annex to the public consultation on the 'Have your say' website.

Lunch break			13:00 – 14:00
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8. Listing of UV-328 in Annex I	CA 11/2023/08 CA 11/2023/08-A CA 11/2023/08-B	Discussion	14:00 – 14:10
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UV-328 is included in Annex XIV to REACH, with a latest application date on 27 May 2022 and a sunset date on 27 November 2023. As no application for authorisation was submitted by the latest application date, no use of UV-328 will be allowed in the EU after 27 November 2023. Therefore, no exemption is needed in the EU for production and use. However, UV-328 could still be imported in articles, such as the spare parts for which a specific exemption has been agreed at the COP. No information is currently available on the exemptions needed in the EU for spare parts containing UV-328 or for presence in other articles as there was no restriction dossier developed for UV-328. From the information available from submissions during the Risk Management Evaluation discussion, it seems that an exemption would be needed in the EU at least for motor vehicles.

According to Article 69(2) of REACH, after the sunset date has passed for a substance included on the Annex XIV, ECHA should consider if risks from the use of the substance in articles are adequately controlled. ECHA's assessment on available information on UV-328 is captured in a Draft Screening report².

ECHA's call for evidence on the draft Screening report was held from 31 May to 18 August. It included questions related to the specific exemptions agreed at the COP for UV-328 and their need in the EU. ECHA is updating the Screening report following the comments received during the call for evidence and it will be made publicly available on ECHA's website in January 2024.

After the 28th POP CAs meeting, CAs and stakeholders submitted comments and information related to the setting of the UTC.

¹ [The 2021 European Union report on pesticide residues in food \(wiley.com\)](https://www.wiley.com/doi/10.1002/9781119555555.ch15)

² [e1533cd2-f821-d6c4-037e-84cb5c081689 \(europa.eu\)](https://e1533cd2-f821-d6c4-037e-84cb5c081689.europa.eu)

COM will now consider the updated screening report and the comments received and amend the draft Act and Annex. The new version will be submitted to the public consultation on the Have your Say website. All stakeholders can comment on the new drafts during the consultation period.

MS will be consulted in writing on the updated draft Act and Annex that will take into account the Screening report.

9. Listing of dechlorane plus in Annex I	CA 11/2023/09 CA 11/2023/09-A CA 11/2023/09-B	Discussion	14:10 – 14:25
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COM received studies that contain information on levels of dechlorane plus in electric and electronic waste after the 28th POP CA meeting. A Norwegian study reported that dechlorane plus was in most cases not found at levels above the limit of quantification (1 mg/kg). The maximum level measured was 13.5 mg/kg. However, dechlorane plus was not quantified in the output recycled plastic, showing that waste containing dechlorane plus was likely separated during the recycling process. A Swiss study found an average level of 33 mg/kg of dechlorane plus in electric and electronic waste.

Considering this information, COM proposes to use as **UTC** the limit of quantification of the Norwegian study (**1 mg/kg**). This value could be revised based on the outcome of the public consultation on the Have you say website.

MS will be consulted in writing on the updated draft Annex and Act after the public consultation.

10. Future work to identify UTCs		Discussion	14:25 – 14:35
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COM has started to consider establishing an UTC limit value for all POPs.

Written comments on prioritization are welcome by 15/01/2024.

11. ECHA – proposal for a nomination for D4-D5-D6	CA 11/2023/11	Discussion	14:35 – 15:30
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Closed session, COM highlighted several comments received from stakeholders:

- Amendment of Annex C on Unintentional production is needed before nomination.
- Consideration of the impacts of nomination on recycling and the shipment of waste.
- Impact assessment missing. COM clarified that this impact assessment will be conducted by the POPRC as part of the Risk Management Evaluation (RME) and is not a criterion for the nomination.
- Concerns about the lack of information regarding the concentration of monomers (as impurity) in polymers.
- Efficiency of such measure as various actions are already implemented worldwide with COM emphasizing that these actions are not binding.

The entry into force of the new REACH restriction is expected in the first half of next year.

■ and SE agreed that the POP criteria are met, expressed support for the nomination, and underscored the need for a broad exemption for intermediates, along with some exemptions for main uses. ■ expressed concerns about economic impacts. ■ referred to the ongoing monitoring study conducted by the industry in Antarctica. ■ expressed concerns about climate goals with the COM emphasizing that the intention is not to restrict or ban the use of polymers.

Open session – only scientific data were discussed.

Scientific conclusions presented by ECHA (see PP)



POP-CA_11-23_11-S
C listing proposal D4-

CEFIC is opposed to the nomination as monitoring studies are still ongoing in Antarctica (with analytical challenges), questioned whether LRT criteria are met – ECHA believes we can move forward based on current reliable monitoring data showing that LRT criteria are met. An economic impact assessment study for 6 major sectors is underway and will be finalized and shared in April 2024 – COM reiterated that an impact assessment will be conducted by the POPRC under the RME, and the study conducted by CEFIC could then be taken into account.			
12. ECHA – Union overview report and Member States reports	CA 11/2023/12	Discussion	15:30 – 15:45
The Union Overview and the national reports are published here: https://echa.europa.eu/planning-and-reporting ■ will submit an updated report before the end of the year, incorporating new data on controls and the update of our National Implementation Plan (NIP). Regarding section I of the Excel file on manufacturing and placing on the market, ■ emphasized that the POP Regulation does not impose any reporting obligations on the industry. We understand, based on ECHA's response in the last meeting, that the requirements under the REACH Regulation (i.e., registration, SCIP database notifications) and the PIC Regulation (i.e., Article 10 reporting) are not sufficient to obtain the necessary information. ■ therefore requested the COM to identify legal options at the EU level that could address this issue and enable the collection of the required information. COM will look into this and will inform MS at the next POP CA meeting.			
Coffee / tea break			15:45 - 16:00
13. Report POPRC-19	CA 11/2023/13	Information	16:00 – 16:15
- POPRC agreed to move chlorpyrifos to the RME stage. - MCCP: The Commission will proceed with a restriction under REACH, as the COP will consider listing in the Stockholm Convention only in 2025. The only exemption supported in the REACH restriction is for the use in metal-working fluids. - Long-chain PFCAs – C9-C21: POPRC agreed to recommend to the COP the listing of LC-PFCAs but decided to come back on the specific exemptions at next meeting. Additional information on function of LC-PFCAs, volumes and emissions will be requested during the transitional period. In the EU, we already have a restriction on C9-C14 PFCAs, which entered into application in February 2023. Once the COP decides for listing of C9-C21 PFCAs, the entry in Annex XVII will be repealed and replaced with an entry in Annex I to the POPs Regulation, which will include also C14-C21 substances.			
14. Notification of articles in use containing POPs	CA 11/2023/14 CA 11/2023/14-A	Discussion	16:15 – 16:30
 POP-CA_11-23_14-A rticles in use_Annex A			
15. Implementation of the Convention	CA 11/2023/15	Discussion	16:30 – 16:45
An initiative has been launched by the POPRC on identification of POPs in stockpiles, products and articles in use and in wastes following decision SC-11/12. A questionnaire will be distributed in the coming weeks, with a submission deadline set for March 2024. COM recommends that MS respond individually to the questionnaire.			
16. Union Synthesis Report on the application of the POPs Regulation	CA 11/2023/16	Information	16:45 – 16:50
18. AOB		Information	16:50 – 17:10

■ raised concerns about Article 5, indicating that they have not received notifications for articles containing POPs. ■ urged Member States to share their experiences in this regard.

■ is facing difficulty interpreting the phrase "**produced before or on the date that this Regulation becomes applicable to that substance**" in Article 4.2 of the POP Regulation. This article provides two general exemptions: a 6-month period for all articles containing POPs and a timeless period for articles already in use. The ambiguity lies in whether this refers to "**the date when the substance is restricted for the first time**" (e.g., July 4, 2020, for PFOA) or "**the date when the use is restricted**" (e.g., July 4, 2023, for textiles containing PFOA for the protection of workers). An harmonized interpretation is therefore needed among MS. Option 1 is considered more protective as it ensures that articles produced under exemptions are not marketed beyond the deadlines set out in Annex I (without an additional 6-month period for their marketing). However, it also implies that articles produced under exemptions cannot be used or remarketed after these deadlines. To address this and provide legal clarity on the use and remarketing of articles produced under exemptions, ■ suggests amending entries that could cause problems (such as the PFOA entry/point 8 by specifying that the use of articles produced under exemptions is allowed).

COM emphasized that ongoing reflection is taking place, articles produced under exemptions did not exist before the regulation becomes applicable and, therefore, they cannot be considered as "articles in use." ■ raised a practical concern, asking what should be done with these articles after the deadline and questioned if they should be treated as waste. ■ expressed appreciation for the proposal made by ■. Another alternative is to modify the interpretation of Article 4.2 in the factsheet. The COM stated that it would continue its consideration of the matter and committed to providing written information before the next meeting.

19. Closure and next meeting		Information	17:10 – 17:15
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Date of the next meeting = 11/06/2024 (hybrid meeting)

New rule regarding the publication of MS' positions is proposed by the COM. By default, the COM will make all positions sent by MS available on CIRCABC, specifically within the POP expert group, which is accessible to stakeholders. However, if a MS wishes to restrict the visibility of their comments to other MS only, they should explicitly mention that their comments should be made available solely within the POP CA group. In such cases, the comments will not be accessible to external stakeholders. Such approach is already followed under other files, e.g. REACH, CLP.