



Brussels, 28.10.2021  
COM(2021) 656 final

2021/0340 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

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

(Text with EEA relevance)

{SEC(2021) 379 final} - {SWD(2021) 299 final} - {SWD(2021) 300 final} -  
{SWD(2021) 301 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

Regulation (EU) 2019/1021 of the European Parliament and of the Council<sup>1</sup> on persistent organic pollutants ('the POPs Regulation') implements the commitments of the Union under the Stockholm Convention on Persistent Organic Pollutants ('the Stockholm Convention'), approved by Council Decision 2006/507/EC<sup>2</sup>, and under the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants ('the POPs Protocol'), approved by Council Decision 2004/259/EC<sup>3</sup>.

The primary purpose of the proposal is to implement, for the substances within its scope, the EU's **international obligations under the Stockholm Convention** and, more specifically, those derived from the POPs Regulation. Therefore, the main objective of the proposal is to **protect human health and the environment** from the adverse effects caused by POP substances and eliminating or minimising emissions of POPs from waste. Taking this into account, the general objectives of this initiative are also to ensure, to the extent possible, **an optimal balance with the European Green Deal's ambitions** to achieve **toxic-free material cycles**, increase **recycling and circularity** and **reduce GHG emissions**.

The problems caused by POP substances are related to their **intrinsic physical and chemical properties**, to how and where they have been used, and to the adverse effects that their progressive release has on the health of human beings, of ecosystems and on the services these provide. In one way or another, all POP substances are recognised to have adverse, generally long-term effects upon living organisms. They persist for a very long time in the environment and in our bodies and can be transported unchanged to almost any remote point of the globe, far away from where they were produced or used.

More concretely, the aim of this initiative is to **update, for certain substances and groups of substances, the concentration limits set in Annexes IV and V of the POPs Regulation**, which determine how waste that contains POPs is treated, particularly whether it can be recycled or should be destroyed or irreversibly transformed. This update brings Annexes IV and V of the Regulation in line with the Stockholm Convention and with Annex I of the POPs Regulation by aligning with the substances listed therein and introducing concentration limit values for them. It also adapts, to scientific and technical progress, the limit values for some substances that are already listed.

Management of POP waste, including its recycling where this is possible, should be carried out in an **environmentally sound manner**, with minimal impact on human health and the environment. The resulting secondary materials should **always be safely useable** and fit for purpose and, to the greatest extent feasible, **free of toxic substances**. It should also minimise the extent to which toxic substances are released into the environment, and thus contribute to

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<sup>1</sup> Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants (recast) (OJ L 169, 25.6.2019, p. 45).

<sup>2</sup> 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).

<sup>3</sup> 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).

the zero pollution ambition by reducing their environmental and health impact. To achieve this, suitable, state-of-the art **sorting and decontamination technologies** must be available.

- **Consistency with existing policy provisions in the policy area**

The current Union rules on the management of persistent organic pollutants are laid down in the POPs Regulation. In addition, Union obligations relating to the export of persistent organic pollutants are implemented by Regulation (EU) No 649/2012 of the European Parliament and of the Council<sup>4</sup>.

The proposal amends Annexes IV and V of the POPs Regulation, implements the Union's commitments in the context of the Stockholm Convention and the POP Protocol, and is consistent with the Basel Convention on transboundary movements and disposal of hazardous and other wastes. The proposal implements, for the substances within its scope, the obligation of the Parties to the Basel Convention to ensure the **environmentally sound management** of hazardous waste and other waste. The values set out in Annex IV of the POPs Regulation implement at Union level the concept of 'low POP content values' that are listed as non-binding values under the Basel 'General technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants'.

- **Consistency with other Union policies**

The proposal is consistent with the objective in the Chemicals Strategy for Sustainability<sup>5</sup> to minimise and substitute, as far as possible, chemicals which have a chronic effect on human health and the environment (one type of substances of concern) and to phase out the most harmful ones in applications that are non-essential for society, particularly those in consumer products.

Similarly, the proposal is consistent with the objective, put forward in the European Green Deal<sup>6</sup>, of achieving **climate neutrality** in Europe by 2050 and with that of implementing a new Circular Economy Action Plan<sup>7</sup> to stimulate the development of lead markets for climate-neutral and circular products in the EU and beyond. The proposal is also in line with the Communication on a **Zero Pollution Action Plan**<sup>8</sup>, in which the EU has defined a zero pollution vision for 2050, whereby air, water and soil pollution is reduced to levels no longer considered harmful to health and natural ecosystems and that respect the boundaries our planet can cope with.

## 2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The proposal is based on Article 192(1) of the Treaty on the Functioning of the European Union relating to environmental protection, given that the measures agreed under the

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<sup>4</sup> 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 (OJ L 201, 27.7.2012, p. 60).

<sup>5</sup> COM(2020) 667 final

<sup>6</sup> COM(2019) 640 final

<sup>7</sup> COM(2020) 98 final

<sup>8</sup> COM(2021) 400 final

Stockholm Convention predominantly pursue an environmental objective, namely eliminating or reducing the emissions of persistent organic pollutants.

Article 15(2) of the POPs Regulation specifies that the Commission must keep Annexes IV and V under **constant review** and shall, **where appropriate**, make legislative proposals to amend these Annexes, to adapt them to the **changes to the list of substances** set out in the Annexes to the Convention or the Protocol, or to **modify existing entries** or provisions in the Annexes to this Regulation, to adapt them to scientific and technical progress.

- **Subsidiarity**

The POP substances within the scope of this proposal are transported across internal EU boundaries far from their sources, and avoiding releases from POPs containing waste is a priority in this respect.

Protecting the environment and human health through a system that guarantees the sound management of POP waste can only be efficient if common rules are defined and established at EU level. Therefore, the objectives of the proposal cannot be achieved by the Member States on their own, because a harmonised approach is needed to ensure that the Union, as a Party to the Stockholm Convention, meets its international obligations.

- **Proportionality**

The POPs Regulation requires consideration of proportionality, as indicated in recital 34 of the Regulation. The principle of proportionality, as laid down in Article 5 of the Treaty on European Union, seeks to set actions taken by EU institutions within specified bounds.

The measures in the proposal are limited to what is necessary to achieve its objectives and take into account the provisions in Article 5 of Protocol number 2 to the Treaty on European Union, on the application of the principles of subsidiarity and proportionality, which indicate that ‘draft legislative acts shall take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved’.

The methodology to set the limit values, described in Annex IV of the impact assessment, supports the development of limit values that are feasible and implementable for all relevant waste streams. An assessment is carried out regarding the technical and economic feasibility of the proposed limit values for the main operators who are affected; each assessment is case-specific and made on the basis of available information. Aspects such as the number, size and nature of the stakeholders who are affected and their estimated capacity to absorb additional costs and investments, as well as the available treatment capacity of waste operators, are taken into account.

An analysis of the impact of the preferred policy options is summarised in section 8.2 of the impact assessment.

- **Choice of the instrument**

Under Article 15(2) of the POPs Regulation, the Commission must, where appropriate, make legislative proposals to amend Annexes IV and V to the Regulation, to adapt them to the changes to the list of substances set out in the Annexes to the Convention or the Protocol, or

to modify existing entries or provisions in the Annexes to this Regulation, to adapt them to scientific and technical progress. Therefore, as prescribed by Article 15(2), this initiative takes the form of a Regulation amending the POPs Regulation.

### 3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Given the limited and technical nature of this proposal, and considering the recast of the POPs Regulation in 2019, no ex-post evaluation of the existing legislation was considered necessary.

- **Stakeholder consultations**

The impact assessment accompanying this proposal was subject to a thorough stakeholder consultation to ensure that the views of stakeholders were duly represented and considered. Given the technical nature of the proposal and its deep level of detail, the exercise was primarily addressed to professional, academic and industrial/sectoral stakeholders, as well as representatives of civil society such as NGOs, consumer associations and trade unions.

The **Inception Impact Assessment Roadmap** was published on 29 May 2020 and the consultation period concluded on 7 August 2020; feedback was received from 51 respondents. The analysis of these responses revealed some distinct discrepancies between stakeholders on how to deal with POPs in the circular economy.

According to many responses, particularly from NGOs, the recycling of waste containing POPs is incompatible with a safe circular economy. This argument prioritises the removal of POPs from within the supply chain over the potential benefits associated with recycling such products. Industry responses provide a more nuanced view and note that EU policies which strive for a ‘toxic-free environment’ and also for more recycling often point in contradictory directions, which results in waste operators finding themselves in a situation where rules are not predictable and not always practicable. Two associations indicated that more public support should be provided to foster new investments in waste sorting and decontamination, as this would allow for more and better recycling.

In addition, a **targeted stakeholder consultation** was carried out in the context of the support study, comprising all aspects relevant to the impact assessment, including socio-economic elements, by means of an electronic questionnaire and interviews with stakeholders representing key sectors and organisations. The impact assessment supporting this proposal also capitalises on information on the views of stakeholders, and of society in general, regarding substances of concern in recycled materials, that were collected in the open public consultation on the interface between chemical, product and waste legislation<sup>9</sup>. This consultation, carried out in 2018, addressed broader, less technical aspects relevant to this measure, and therefore this information was already available and was used to support the measure. A summary report<sup>10</sup> of that consultation was published on 28 February 2019.

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<sup>9</sup> COM(2018) 32

<sup>10</sup> <https://ec.europa.eu/info/sites/info/files/summary-report-public-consultation-chemical-product-waste-legislation.pdf>

A detailed account of the stakeholder consultations and of their outcomes is included in Annex 2 of the impact assessment report.

- **Collection and use of expertise**

To support the analysis of the impact assessment, the Commission awarded a support contract to external consultants: *'Study to support the assessment of impacts associated with the review of limit values in waste for POPs listed in Annexes IV and V of Regulation (EU) 2019/1021'* (RPA/INERIS, 2021). The assessment also relied on a study carried out in support of a previous amendment of Annexes IV and V of the POPs Regulation, particularly for the mass flows of substances and waste, done in the context of the recast of Regulation (EC) No. 850/2004: *'Study to support the review of waste related issues in Annexes IV and V of Regulation (EC) 850/2004'* (Ramboll Environment & Health GmbH, January 2019).

In addition to these two studies, information on relevant substances contained in older studies carried out in support of previous amendments of the POPs Regulation was also considered:

- *Study on waste related issues of newly listed POPs and candidate POPs* (ESWI Consortium, April 2011)
- *Study to facilitate the implementation of certain waste related provisions of the Regulation on Persistent Organic Pollutants (POPs)* (BiPRO, August 2005)

The development of the impact assessment in support of the proposal was also assisted by an Inter Service Steering Group for the Impact Assessment. This group was set up by DG Environment and met four times from July 2020 to June 2021.

- **Impact assessment**

**The proposal is informed by an impact assessment.** After having addressed the Regulatory Scrutiny Board's comments issued in its first opinion of 5 March 2021, the impact assessment received a positive opinion with reservations on 29 June 2021. In its final opinion, the Board asked for further details on the methodology used to propose the different limit values for the POPs within the scope of the proposal.

The policy options considered in the impact assessment refer to a range of limit values to the Annex IV values to be proposed for the different substances within the scope of the proposal. Annex IV values (also known as 'low POP concentration limits') are defined in Article 7(4)(a) of the POPs Regulation. They define the value for POP substances in waste at or above which they have to be destroyed or irreversibly transformed. In practice, this means that waste below this value containing POPs can be treated by other means, including being recycled.

For each of the substances within the scope of the proposal, **Policy Option 1** describes the current baseline and represents the highest value considered (or the absence of a limit for substances not yet listed). Under the baseline, no changes would be introduced in Annexes IV and V to the POPs Regulation. This means that newly listed substances under the Convention would not be included in the relevant Annexes<sup>11</sup>. The same would also apply to substances for

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<sup>11</sup> As explained in section 3.1 of the impact assessment report, this is a purely hypothetical 'business-as-usual' policy option, as such listing is mandatory and not listing these substances in Annex IV would not enable the EU to meet its obligation to ensure environmentally sound management of POP waste.

which limits have already been set under the POPs Regulation, and for which scientific and technical progress advises that the values be reviewed.

**Policy Option 2** represents values in the middle of the range under consideration. In this option, new limit values under Annex IV are proposed to be established for new substances and limit values are proposed to be tightened for certain listed POPs where this can be justified. The former is the case for the newly listed substance PFOA, its salts and PFOA-related compounds. No intermediate Option 2 values were considered for dicofol and pentachlorophenol. For the remaining substances within the scope of this proposal – PBDEs, HBCDD, SCCPs and dioxins and furans (including dl-PCBs) – a middle range limit value was considered in the impact assessment.

Under **Policy Option 3**, stricter limit values in Annex IV are proposed for eight substances<sup>12</sup>. For PBDEs, Option 3 is analysed as two sub-options, one resulting in implementing the lower limit value immediately and the other envisaging a delayed implementation of 5 years after entry into force of the measure (with Option 2 being implemented in the interim).

**Policy Option 4**, with an additional lower value, has been considered for dioxins and furans (PCDD/Fs). The reason for this additional option is to assess the possibility of setting a lower Annex IV value for these substances, as well as the additional sub-option to set a lower specific value to be used only as a limit for untreated waste applied directly on land (e.g. in agricultural applications).

The following table presents a range of values (policy options) for Annex IV for each substance/substance group considered:

*Tables 1 and 2: Policy options considered for Annex IV limits*

<b>Table 1</b>	<b>Option 1 (baseline<sup>13</sup>)</b>	<b>Option 2</b>	<b>Option 3</b>
<b>PFOA, its salts and PFOA-related compounds (mg/kg)</b>	-	50 for PFOA and its salts; 2 000 for related compounds	0.025 for PFOA and its salts; 1 for related compounds <sup>#</sup>
<b>Dicofol (mg/kg)</b>	-	-	50
<b>Pentachlorophenol (PCP), its salts and esters (mg/kg)</b>	-	-	100
<b>Sum of 5 PBDEs (mg/kg)</b>	1 000	500	200
<b>SCCPs (mg/kg)</b>	10 000	1 500	420
<b>HBCDD (mg/kg)</b>	1 000	500	100

Note: No baseline value is available for PFOA, dicofol and PCP, given these are newly listed substances.

<sup>12</sup> Note that, for dioxin-like PCBs, the assessment focuses on their integration into the limit value for dioxins and furans.

<sup>13</sup> Current baseline values in Annex IV of the POPs Regulation.

**Table 2**

	Option 1 (baseline)	Option 2	Option 3	Option 4
<b>Dioxins and furans*</b> (mg/kg)	0.015	0.010	0.005 <sup>+</sup> (0.001)	0.001 <sup>++</sup> (0.00005)

\*: The appropriateness of including dioxin-like PCBs in the group value for dioxins and furans is also assessed.

+/: For dioxins and furans, Options 3 and 4 define a generally applicable value to all waste management operations. They each include a possible sub-option which would include an additional specific limit value in parenthesis that would apply only for application of waste on land.

Following the assessment of the environmental, social and economic impact of the various policy options considered for the Annex IV values for the relevant POP substances, the preferred options are highlighted in the table below.

**Table 3: Preferred option for Annex IV limits (shaded)**

Substance	Option 1 Baseline	Option 2	Option 3	Option 4
PBDEs	1 000 mg/kg	500 mg/kg	Initial implementation of <b>500 mg/kg</b> , followed by <b>reduction to 200 mg/kg</b> <sup>14</sup> <b>5 years after entry into application</b> of initial limit	N/A (not applicable)
HBCDD	1 000 mg/kg	500 mg/kg	100 mg/kg	N/A
PCDD/Fs (dioxins and furans) <sup>15</sup>	0.015 mg TEQ/kg	0.010 mg TEQ/kg	0.005 mg TEQ/kg	0.001 mg TEQ/ kg
Dioxin-like PCBs <sup>16</sup>	No specific consideration of dl-PCBs (included in existing total PCB limit of 50 mg/kg)	Definition of a specific stand-alone limit for dl-PCBs	Inclusion of dl-PCBs in the limit for PCDD/Fs (under PCDD/Fs Option 3 – 0.005 mg TEQ/kg)	N/A
Short-chain chlorinated paraffins (SCCPs)	10 000 mg/kg	1,500 mg/kg	420 mg/kg	N/A
PFOA, its salts and related compounds	No limits exist	50 mg/kg (PFOA and salts) 2 000 mg/kg (PFOA-related compounds)	<b>1 mg/kg for PFOA and salts and 40 mg/kg for PFOA-related compounds</b> [Note: The above value is proposed instead of the initially considered Option 3: 0.025 mg/kg (PFOA and salts) 1 mg/kg (PFOA-related compounds)]	N/A

<sup>14</sup> Or the value for the sum of listed PBDEs in Annex I, for mixtures or articles, if this is higher at that time.

<sup>15</sup> Sub-options 3 and 4, which include an additional specific lower value for waste applied on land, have been considered and not retained due to their disproportionate impact and considerations regarding the appropriateness of the instrument (other dedicated legislation seems more appropriate). See section 5.2 of the impact assessment report.

<sup>16</sup> Options 2 and 3 do not represent numerical values but different approaches to setting a limit for dl-PCBs.



Substance	Option 1 Baseline	Option 2	Option 3	Option 4
Pentachlorophenol (PCP), its salts and esters	No limit exists	N/A	100 mg/kg	N/A
Dicofol	No limit exists	N/A	50 mg/kg	N/A

In addition to the Annex IV values above, the impact assessment also considers, for the substances for which a new listing is proposed, a single policy option representing a value to be included in Annex V of the Regulation. For consistency, the substance decaBDE is also proposed to be included in the limit value for the (listed) PBDEs. Annex V values are referred to in Article 7(4)(b) of the POPs Regulation and are also known as ‘maximum POP concentration limits’.

**Table 4:** Proposed Annex V limit values

Substance	Value
PBDEs (including decaBDE)	10 000 mg/kg
PFOA, its salts and related compounds	50 mg/kg for PFOA and salts 2 000 mg/kg for PFOA-related substances
Pentachlorophenol (PCP)	1 000 mg/kg
Dicofol	5 000 mg/kg

The preferred policy options proposed are supported by the methodology described in section 5.2 and in Annex IV of the impact assessment report. They take into account the general objectives of protecting human health and the environment (as an overarching objective), increased recycling and uptake of secondary raw materials and contributing to a reduction in greenhouse gas emissions (in support of the EU’s climate objectives).

The proposed values for Annex V are informed by the results of applying the methodology and are ultimately based on existing agreed Annex V values for similar substances.

In addition to the substances listed above, the impact assessment has addressed an additional substance, perfluorohexane sulfonic acid (PFHxS). The POPs Review Committee operating under the Stockholm Convention adopted a decision recommending that the Conference of the Parties (COP) consider listing PFHxS, its salts and PFHxS-related compounds in Annex A to the Convention without specific exemptions. Due to the COVID-19 pandemic, the decision for this inclusion, originally scheduled for July 2021, was delayed and is now due to take place in the face-to-face segment of COP10 of the Stockholm Convention planned for 6-17 June 2022. Given PFHxS is not yet listed under the Convention, its listing under the POPs Regulation is currently not proposed. If such listing under the Convention takes place during the co-decision process its inclusion in the Regulation may be proposed based on the analysis carried out in the impact assessment.

- **Regulatory fitness and simplification**

No simplification measures were identified, as the POPs Regulation has recently gone through a recast exercise. The initiative is limited to setting values for specific substances in Annexes

IV and V of the POPs Regulation; therefore, the proposal follows a strictly defined legal scope and format.

- **Fundamental rights**

The unsound management of hazardous substances, particularly of POPs, contributes to overall environmental pollution which may have serious effects on the right to life, the right to the integrity of the person, the right to fair and just working conditions and the right to a healthy environment.

The POPs Regulation implements the provisions of the Stockholm Convention and the Protocol in the Union. Bearing in mind Principles 14 and 15 of the Rio Declaration on Environment and Development, the Regulation provides measures to minimise – and with a view to eliminating, where feasible, as soon as possible – releases of POPs. It also establishes provisions on waste consisting of, containing or contaminated by any of those substances.

The proposal amends Annexes IV and V of the POPs Regulation, enabling the Union to adhere to its commitments, for the substances within the scope of the proposal, made by the Union under the Stockholm Convention and the Protocol.

#### **4. BUDGETARY IMPLICATIONS**

The proposed measure does not envisage budgetary consequences for the European Commission. Consequently, **a legislative financial statement is not provided.**

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Monitoring of the impact and effectiveness of the POPs Regulation, including its provisions regarding waste, is an existing obligation under the Regulation; consequently, no additional measures or mechanisms are envisaged in this proposal. Synthesis reports prepared by the Commission, based on Member States' reporting on the implementation of the POP Regulation, are published regularly<sup>17</sup>.

- **Explanatory documents**

As the legal instrument proposed is a Regulation, which is directly applicable in the Member States, an explanatory document is not required.

- **Detailed explanation of the specific provisions of the proposal**

**Article 1** provides for the amendment of Annexes IV and V to Regulation (EU) 2019/1021.

**Article 2** contains provisions regarding the entry into force of the measure.

**Annex** contains specific provisions amending Annexes IV and V to Regulation (EU) 2019/1021.

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<sup>17</sup> [https://ec.europa.eu/environment/chemicals/international\\_conventions/index\\_en.htm](https://ec.europa.eu/environment/chemicals/international_conventions/index_en.htm)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EU) 2019/1021 of the European Parliament and of the Council<sup>3</sup> on persistent organic pollutants 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<sup>4</sup>, 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<sup>5</sup>.
- (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

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants (recast) (OJ L 169, 25.6.2019, p. 45).

<sup>4</sup> 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).

<sup>5</sup> Council Decision 259/2004/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, 19.03.2004, p. 35).

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.

- (3) Pentachlorophenol had been previously listed in Annexes IV and V to Regulation (EC) No 850/2004 of the European Parliament and of the Council<sup>6</sup> by Commission Regulation (EU) 2019/636<sup>7</sup>, 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.
- (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.
- (5) Considering that a subgroup of 12 PCB congeners<sup>8</sup>, known as dioxin-like PCBs (dl-PCBs), have toxicological properties that closely resemble those of PCDD/PCDF, and to take into account the aggregated effect of all dioxin-like compounds listed in Regulation (EU) 2019/1021, it is appropriate to include dl-PCBs within the existing group entry for PCDD/PCDF in Annexes IV and V to Regulation (EU) 2019/1021. The list of toxic equivalency factor values in Part 2 of Annex V to that Regulation should also be amended to introduce the corresponding values for the individual dl-PCB congeners.
- (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

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<sup>6</sup> 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).

<sup>7</sup> 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).

<sup>8</sup> PCB-77, PCB-81, PCB-105, PCB-114, PCB-118, PCB-123, PCB-126, PCB-156, PCB-157, PCB-167, PCB-169 and PCB 189.

should also take into consideration the broader policy objective of achieving a climate-neutral and circular economy, enshrined in the European Green Deal<sup>9</sup>.

- (7) Regulation (EU) 2019/1021 should therefore be amended accordingly.
- (8) It is appropriate to provide for a sufficient period of time to allow companies and competent authorities to adapt to the new requirements.

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

Annexes IV and V to Regulation (EU) 2019/1021 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*.

This Regulation shall apply from [*OP, please introduce the date of 6 months after publication in the Official Journal of the European Union*].

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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<sup>9</sup> COM(2019) 640 final



Brussels, 28.10.2021  
COM(2021) 656 final

ANNEX

**ANNEX**

**to the**

**Proposal for a  
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
amending Annexes IV and V to Regulation (EU) 2019/1021 of the European Parliament  
and of the Council on persistent organic pollutants**

{SEC(2021) 379 final} - {SWD(2021) 299 final} - {SWD(2021) 300 final} -  
{SWD(2021) 301 final}

## ANNEX

Annexes IV and V are amended as follows:

(1) Annex IV is amended as follows:

(a) the following rows are added to the table:

‘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)’

(b) the row for the substance Alkanes C<sub>10</sub>-C<sub>13</sub>, chloro (short-chain chlorinated paraffins) (SCCPs) is replaced by the following:

‘Alkanes C <sub>10</sub> -C <sub>13</sub> , chloro (short-chain chlorinated paraffins) (SCCPs)	85535-84-8	287-476-5	1 500 mg/kg’
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(c) the rows for the substances Tetrabromodiphenyl ether C<sub>12</sub>H<sub>6</sub>Br<sub>4</sub>O, Pentabromodiphenyl ether C<sub>12</sub>H<sub>5</sub>Br<sub>5</sub>O, Hexabromodiphenyl ether C<sub>12</sub>H<sub>4</sub>Br<sub>6</sub>O, Heptabromodiphenyl ether C<sub>12</sub>H<sub>3</sub>Br<sub>7</sub>O and Decabromodiphenyl ether C<sub>12</sub>Br<sub>10</sub>O are replaced by the following:

‘Tetrabromodiphenyl ether C <sub>12</sub> H <sub>6</sub> Br <sub>4</sub> 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 <sub>12</sub> H <sub>5</sub> Br <sub>5</sub> O	32534-81-9 and others	251-084-2 and others	
Hexabromodiphenyl ether C <sub>12</sub> H <sub>4</sub> Br <sub>6</sub> O	36483-60-0 and others	253-058-6 and others	
Heptabromodiphenyl ether C <sub>12</sub> H <sub>3</sub> Br <sub>7</sub> O	68928-80-3 and others	273-031-2 and others	

Bis(pentabromophenyl) ether (decabromodiphenyl ether; decaBDE) C <sub>12</sub> Br <sub>10</sub> 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.’
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(d) the row for the substances Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/PCDF) is replaced by the following:

‘Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/PCDF) and dioxin-like polychlorinated biphenyls (dl-PCBs)			5 µg/kg <sup>(2)</sup>
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<sup>(2)</sup> 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.’

(e) the row for the substance hexabromocyclododecane is replaced by the following:

‘Hexabromocyclododecane <sup>(4)</sup>	25637-99-4,	247-148-4	500 mg/kg’
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	3194-55-6, 134237-50-6, 134237-51-7, 134237-52-8	221-695-9	
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(2) Part 2 of Annex V is amended as follows:

(a) in the second paragraph, the second column of the table, ‘Maximum concentration limits of substances listed in Annex IV’, is amended as follows:

(i) the text ‘Polychlorinated dibenzo-p-dioxins and dibenzofurans: 5 mg/kg;’ is replaced by the following:

‘Polychlorinated dibenzo-p-dioxins and dibenzofurans and dioxin-like polychlorinated biphenyls (dl-PCBs): 5 mg/kg;’;

(ii) the text ‘Sum of the concentrations of tetrabromodiphenyl ether (C<sub>12</sub>H<sub>6</sub>Br<sub>4</sub>O), pentabromodiphenyl ether (C<sub>12</sub>H<sub>5</sub>Br<sub>5</sub>O), hexabromodiphenyl ether (C<sub>12</sub>H<sub>4</sub>Br<sub>6</sub>O) and heptabromodiphenyl ether (C<sub>12</sub>H<sub>3</sub>Br<sub>7</sub>O): 10 000 mg/kg;’ is replaced by the following:

‘Sum of the concentrations of tetrabromodiphenyl ether (C<sub>12</sub>H<sub>6</sub>Br<sub>4</sub>O), pentabromodiphenyl ether (C<sub>12</sub>H<sub>5</sub>Br<sub>5</sub>O), hexabromodiphenyl ether (C<sub>12</sub>H<sub>4</sub>Br<sub>6</sub>O), heptabromodiphenyl ether (C<sub>12</sub>H<sub>3</sub>Br<sub>7</sub>O) and decabromodiphenyl ether (C<sub>12</sub>Br<sub>10</sub>O): 10 000 mg/kg;’;

(iii) the following text is inserted after ‘Toxaphene: 5 000 mg/kg.’:

‘Pentachlorophenol, its salts and esters: 1 000 mg/kg;

Dicofol: 5 000 mg/kg;

Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds: 50 mg/kg (PFOA and its salts), 2 000 mg/kg (PFOA-related compounds).’.

(b) the third paragraph is replaced by the following:

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

#### Toxicity equivalency factors (TEFs) for PCDD, PCDF and dl-PCBs

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
<b>PCDF</b>	<b>TEF</b>
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
<b>dl-PCBs</b>	<b>TEF</b>
PCB 77	0,0001
PCB 81	0,0003
PCB 105	0,00003
PCB 114	0,00003
PCB 118	0,00003
PCB 123	0,00003
PCB 126	0,1
PCB 169	0,03
PCB 156	0,00003
PCB 157	0,00003
PCB 167	0,00003

PCB 189	0,00003
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## Information Note

### 1. Proposal

Proposal for a Regulation of the European Parliament and of the Council amending Annexes IV and V to Regulation (EU) 2019/1021 of the European Parliament and of the Council on persistent organic pollutants.

### 2. Date of Commission document

28/10/2021

### 3. Number of Commission document

COM(21) 656

### 4. Number of Council document:

2021/0340 (COD)

### 5. Dealt with in Brussels by

Working Party on Environment (WPE)

### 6. Department with primary responsibility

Department of the Environment, Climate and Communications

### 7. Other Departments involved

N/A

### 8. Background to, Short summary and aim of the proposal

Persistent Organic Pollutants (POPs) are chemicals that are persistent, bio-accumulative, and toxic to humans and/or the environment. Consequently, their releases to the environment must be minimised and, where feasible eliminated as soon as possible. Regulation (EU) 2019/1021 on persistent organic pollutants (the POPs Regulation) implements the commitments of the European Union under the United Nations Stockholm Convention on Persistent Organic Pollutants. Regulation (EU) 2019/1021 on POPs is implemented in Ireland by the European Union (Persistent Organic Pollutants) Regulations 2020 (S.I. No. 146/2020). The EPA is the Competent Authority under these national Regulations.

Management of POP waste, including its recycling where this is possible, should be carried out in an environmentally sound manner, with minimal impact on human health and the environment. The resulting secondary materials should always be safely useable and fit for purpose and, to the greatest extent feasible, free of toxic substances. It should also minimise the extent to which toxic substances are released into the environment, and thus contribute to the 'zero-pollution ambition', by reducing their environmental and health impact.

Annexes IV and V of the POPs Regulation determine how waste that contains POPs is managed in an environmentally sound manner. Annex IV sets 'low POP concentration limits' (LPCLs) for each POP whereby any waste stream exceeding the LPCLs must be treated as 'POPs waste' and subject to destruction or irreversible transformation.

The aim of the Commission's proposal is to amend Annexes IV and V of the POPs Regulation to add LPCLs for newly added POPs and lower existing LPCLs so as to reduce

the amount of POPs waste that can enter the general waste stream which can impede the aims of the European Green Deal to *inter alia* achieve toxic-free material cycles and improve recycling and circularity. Therefore, the main objective of the proposal is to protect human health and the environment from the adverse effects caused by POP substances and eliminating or minimising emissions of POPs from waste. The POPs subject to this proposal are:

- Polybrominated diphenyl ethers (PBDEs);
- Short-chain chlorinated paraffins) (SCCPs);
- Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds;
- Perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds;
- Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/Fs);
- Polychlorinated biphenyls (PCBs) (dioxin-like (dl) PCBs and non-dioxin like (ndl) PCBs);
- Pentachlorophenol (PCP), its salts and esters; and
- Hexabromocyclododecane (HBCDD).

## **9. Legal basis of the proposal**

Article 192(1) of the Treaty on the Functioning of the European Union

## **10. Voting Method**

QMV

## **11. Role of the EP**

Co-decision (Ordinary Legislative Procedure)

## **12. Category of proposal**

Technical

## **13. Implications for Ireland & Ireland's Initial View'**

Overall, there are no significant implications for Ireland as EU policy aims to ensure that waste containing POPs above a certain limit value are removed from the waste recycling stream. This is in line with our national 'Circular Economy' and waste management policies where we strive to produce clean uncontaminated waste streams to ensure that substances such as POPs are eliminated and not recirculated into new products *via* recycling processes.

The proposal is an important step in achieving a more circular economy as set out under the Circular Economy Action Plan. It also contributes to the European Green Deal's Zero Pollution Action Plan and to the Chemicals Strategy for Sustainability. Ireland broadly supports the proposal and looks forward to detailed discussions at Council.

## **14. Impact on the public**

In broad terms, the proposal to lower Annex IV limit values from their current levels may result in greater amounts of certain waste becoming unavailable to be recycled and being diverted to non-recycling operations, in most cases *via* 'waste to energy' to destroy the POP content of the waste. In Ireland, this is particularly relevant for waste streams associated with flame retardants PBDEs (present in waste electrical equipment and end-of-life vehicle plastics)) and HBCDD (present in expanded and extruded polystyrene insulation arising within the construction & demolition waste stream).

From a worker protection perspective, it may have a positive health impact upon workers in waste management facilities due to reduced exposure to POP substances in the treated waste.

Lower amounts of POP substances in articles, particularly consumer articles made from recycled (secondary) materials may result in potentially reducing the exposure and health risk to the general population (e.g., reduced exposure to flame retardants either directly or *via* the environment).

**15. Have any consultations with Stakeholders taken place or are there any plans to do so?**

A targeted stakeholder consultation was held by the European Commission in 2020 that sought views from the following key stakeholders:

- Industry associations representing waste management companies
- Waste management companies
- Industry associations representing users of secondary raw materials
- Member State authorities
- NGOs and other stakeholders
- Manufacturers of sampling/analysis equipment

In addition, an open public consultation on the inception impact assessment for the proposal was also held by the European Commission.

**16. Are there any subsidiarity issues for Ireland?**

No

**17. Anticipated negotiating period**

There is no information as to when EP and Council scrutiny will commence on this Commission proposal.

**18. Proposed implementation date**

The Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. This is envisaged in late 2022.

**19. Consequences for national legislation**

EU Regulations are legally binding in their entirety for all Member States. Furthermore, the existing provisions of the European Union (Persistent Organic Pollutants) Regulations 2020 (S.I. No. 146 of 2020) are sufficient to implement the amendment to EU Regulation 2019/1021 on Persistent Organic Pollutants.

**20. Method of Transposition into Irish law**

N/A. See 19 above.

**21. Anticipated Transposition date**

N/A. See 19 above.

**22. Consequences for the EU budget in Euros annually**

N/A

**23. Contact name, telephone number and e-mail address of official in Department with primary responsibility**

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