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Delegations will find attached document D033546/02.

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Brussels, **XXX**  
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**COMMISSION REGULATION (EU) No .../..**

**of **XXX****

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

(Text with EEA relevance)

# COMMISSION REGULATION (EU) No .../..

of **XXX**

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

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Regulation (EC) No 850/2004 implements in the law of the Union the commitments set out in the Stockholm Convention on Persistent Organic Pollutants (hereinafter "the Convention") approved by Council Decision 2006/507/EC<sup>2</sup>, on behalf of the Community, and in the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants (hereinafter "the Protocol") approved by Council Decision 259/2004/EC<sup>3</sup>, on behalf of the Community.
- (2) At the fourth meeting of the Conference of the Parties to the Convention from 4 to 8 May 2009, it was agreed to add chlordecone, hexabromobiphenyl, hexachlorocyclohexanes, including lindane, pentachlorobenzene, tetrabromodiphenyl ether, pentabromodiphenyl ether, hexabromodiphenyl ether and heptabromodiphenyl ether, as well as perfluorooctane sulfonic acid and its derivatives (hereinafter "PFOS") to the Annexes to the Convention.
- (3) In view of concerns regarding the completeness and representativeness of scientific information on quantities and concentrations of the POP brominated diphenyl ethers and PFOS in articles and wastes, those substances were provisionally listed in Annexes IV and V to Regulation (EC) No 850/2004 without an indication of the maximum concentration limits.

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<sup>1</sup> OJ L 158, 30.4.2004, p. 7.

<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 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, 19.02.2004, p. 35).

- (4) Additional scientific data on quantities and concentrations of the POP brominated diphenyl ethers and PFOS in articles and wastes has now been assessed. It is therefore necessary to establish maximum concentration limits for these persistent organic pollutants without undue delay in order to ensure a uniform application of Regulation (EC) No 850/2004 and to avoid a continuous release of those substances into the environment.
- (5) At its 27<sup>th</sup> session from 14 to 18 December 2009, the Executive Body of the Protocol decided to add hexachlorobutadiene, polychlorinated naphthalenes, and short-chain chlorinated paraffins to the Protocol.
- (6) At its fifth meeting from 25 to 29 April 2011, the Conference of the Parties to the Convention agreed to add endosulfan to the list of persistent organic pollutants to be eliminated worldwide, with some exemptions.
- (7) In view of the decisions taken by the Executive Body of the Protocol and the Conference of the Parties to the Convention, it is necessary to update Annexes IV and V to Regulation (EC) No 850/2004 in order to include those substances.
- (8) Regulation (EC) No 850/2004 should therefore be amended accordingly.
- (9) In order to allow companies and competent authorities sufficient time to adapt to the new requirements, this Regulation should apply from [*Date to be filled in by PO: six months after the date of publication*].
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 39 of Directive 2008/98/EC<sup>4</sup>,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Regulation (EC) No 850/2004 is amended as follows:

- (1) Annex IV is replaced by the text in Annex I to this Regulation.
- (2) Annex V is amended in accordance with Annex II to this Regulation.

#### *Article 2*

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

It shall apply from [*Date to be filled in by PO: six months after the date of publication*].

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

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<sup>4</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

Done at Brussels,

*For the Commission*  
*The President*  
*José Manuel BARROSO*

**ANNEX I**

**'Annex IV**

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

Substance	CAS No	EC No	Concentration limit referred to in Article 7(4)(a)
Endosulfan	115-29-7 959-98-8 33213-65-9	204-079-4	50 mg/kg
Hexachlorobutadiene	87-68-3	201-765-5	100 mg/kg
Polychlorinated naphthalenes <sup>(1)</sup>			10 mg/kg
Alkanes C10-C13, chloro (short-chain chlorinated paraffins) (SCCPs)	85535-84-8	287-476-5	10 000 mg/kg
Tetrabromodiphenyl ether C <sub>12</sub> H <sub>6</sub> Br <sub>4</sub> O			Sum of the concentrations of tetrabromodiphenyl ether, pentabromodiphenyl ether, hexabromodiphenyl ether and heptabromodiphenyl ether: 1 000 mg/kg
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			
Perfluorooctane sulfonic acid and its derivatives (PFOS) C <sub>8</sub> F <sub>17</sub> SO <sub>2</sub> X (X=OH, Metal salt (O-M <sup>+</sup> ), halide, amide, and other derivatives including polymers)			50 mg/kg
Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/PCDF)			15 µg/kg <sup>(2)</sup>
DDT (1,1,1-trichloro-2,2-bis(4-chlorophenyl)ethane)	50-29-3	200-024-3	50 mg/kg

Chlordane	57-74-9	200-349-0	50 mg/kg
Hexachlorocyclohexanes, including lindane	58-89-9	210-168-9	50 mg/kg
	319-84-6	200-401-2	
	319-85-7	206-270-8	
	608-73-1	206-271-3	
Dieldrin	60-57-1	200-484-5	50 mg/kg
Endrin	72-20-8	200-775-7	50 mg/kg
Heptachlor	76-44-8	200-962-3	50 mg/kg
Hexachlorobenzene	118-74-1	200-273-9	50 mg/kg
Chlordecone	143-50-0	205-601-3	50 mg/kg
Aldrin	309-00-2	206-215-8	50 mg/kg
Pentachlorobenzene	608-93-5	210-172-5	50 mg/kg
Polychlorinated Biphenyls (PCB)	1336-36-3 and others	215-648-1	50 mg/kg <sup>(3)</sup>
Mirex	2385-85-5	219-196-6	50 mg/kg
Toxaphene	8001-35-2	232-283-3	50 mg/kg
Hexabromobiphenyl	36355-01-8	252-994-2	50 mg/kg

- (1) Polychlorinated naphthalenes means chemical compounds based on the naphthalene ring system, where one or more hydrogen atoms have been replaced by chlorine atoms.
- (2) The limit is calculated as PCDD and PCDF according to the following toxic equivalency factors (TEFs):

PCDD	TEF
2,3,7,8-TeCDD	1
1,2,3,7,8-PeCDD	1
1,2,3,4,7,8-HxCDD	0,1
1,2,3,6,7,8-HxCDD	0,1
1,2,3,7,8,9-HxCDD	0,1

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

- (3) Where applicable, the calculation method laid down in European standards EN 12766-1 and EN 12766-2 shall apply.'



## ANNEX II

In Annex V, Part 2, the table is replaced by the following table:

Wastes as classified in Commission Decision 2000/532/EC		Maximum concentration limits of substances listed in Annex IV <sup>(1)</sup>	Operation
10	WASTES FROM THERMAL PROCESSES	Alkanes C10-C13, chloro (short-chain chlorinated paraffins) (SCCPs): 10 000 mg/kg;	Permanent storage shall be allowed only when all the following conditions are met:  (1) The storage takes place in one of the following locations:  – safe, deep, underground, hard rock formations;  – salt mines;  – a landfill site for hazardous waste, provided that the waste is solidified or partly stabilised where technically feasible as required for classification of the waste in subchapter 1903 of Decision 2000/532/EC.  (2) The provisions of Council Directive 1999/31/EC(*) and Council Decision 2003/33/EC(**) were respected.  (3) It has been demonstrated that the selected operation is environmentally preferable.
10 01	Wastes from power stations and other combustion plants (except 19)	Aldrin: 5 000 mg/kg;	
10 01 14 <sup>*</sup> (2)	Bottom ash, slag and boiler dust from co-incineration containing hazardous substances	Chlordane: 5 000 mg/kg;  Chlordecone: 5 000 mg/kg;	
10 01 16 <sup>*</sup>	Fly ash from co-incineration containing hazardous substances	DDT (1,1,1-trichloro-2,2-bis (4-chlorophenyl) ethane): 5 000 mg/kg;	
10 02	Wastes from the iron and steel industry	Dieldrin: 5 000 mg/kg;	
10 02 07 <sup>*</sup>	Solid wastes from gas treatment containing hazardous substances	Endosulfan: 50 000 mg/kg;	
10 03	Wastes from aluminium thermal metallurgy	Endrin: 5 000 mg/kg;	
10 03 04 <sup>*</sup>	Primary production slags	Heptachlor: 5 000 mg/kg;	
10 03 08 <sup>*</sup>	Salt slags from secondary production	Hexabromobiphenyl: 5 000 mg/kg;	
10 03 09 <sup>*</sup>	Black drosses from secondary production	Hexachlorobutadiene: 1 000 mg/kg;	
10 03 19 <sup>*</sup>	Flue-gas dust containing hazardous substances	Hexachlorocyclohexanes, including lindane: 5000 mg/kg;	
10 03 21 <sup>*</sup>	Other particulates and dust (including ball-mill dust) containing hazardous substances	Mirex: 5 000 mg/kg;  Pentachlorobenzene:	

10 03 29 *	Wastes from treatment of salt slags and black drosses containing hazardous substances	5 000 mg/kg;	
10 04	Wastes from lead thermal metallurgy	Perfluorooctane sulfonic acid and its derivatives (PFOS) (C <sub>8</sub> F <sub>17</sub> SO <sub>2</sub> X) (X=OH, Metal salt (O-M <sup>+</sup> ), halide, amide, and other derivatives including polymers): 50 mg/kg;	
10 04 01 *	Slags from primary and secondary production		
10 04 02 *	Dross and skimmings from primary and secondary production	Polychlorinated Biphenyls (PCB) <sup>(3)</sup> : 50 mg/kg;	
10 04 04 *	Flue-gas dust		
10 04 05 *	Other particulates and dust	Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/PCDF) <sup>(4)</sup> : 5 mg/kg;	
10 04 06 *	Solid wastes from gas treatment		
10 05	Wastes from zinc thermal metallurgy	Polychlorinated naphthalenes*: 1 000 mg/kg;	
10 05 03 *	Flue-gas dust		
10 05 05 *	Solid waste from gas treatment	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;	
10 06	Wastes from copper thermal metallurgy		
10 06 03 *	Flue-gas dust		
10 06 06 *	Solid wastes from gas treatment		
10 08	Wastes from other non-ferrous thermal metallurgy	Toxaphene: 5 000 mg/kg;	
10 08 08 *	Salt slag from primary and secondary production		
10 08 15 *	Flue-gas dust containing hazardous substances		
10 09	Wastes from casting of ferrous pieces		

10 09 09 *	Flue-gas dust containing hazardous substances		
16	WASTES NOT OTHERWISE SPECIFIED IN THE LIST		
16 11	Waste linings and refractories		
16 11 01 *	Carbon-based linings and refractories from metallurgical processes containing hazardous substances		
16 11 03 *	Other linings and refractories from metallurgical processes containing hazardous substances		
17	CONSTRUCTION AND DEMOLITION WASTES (INCLUDING EXCAVATED SOIL FROM CONTAMINATED SITES)		
17 01	Concrete, bricks, tiles and ceramics		
17 01 06 *	Mixtures of, or separate fractions of concrete, bricks, tiles and ceramics containing hazardous substances		
17 05	Soil (including excavated soil from contaminated sites), stones and dredging spoil		
17 05 03 *	Soil and stones containing hazardous substances		
17 09	Other construction and demolition wastes		

17 09 02 *	Construction and demolition wastes containing PCB, excluding PCB containing equipment		
17 09 03 *	Other construction and demolition wastes (including mixed wastes) containing hazardous substances		
19	WASTES FROM WASTE MANAGEMENT FACILITIES, OFF-SITE WASTE WATER TREATMENT PLANTS AND THE PREPARATION OF WATER INTENDED FOR HUMAN CONSUMPTION AND WATER FROM INDUSTRIAL USE		
19 01	Wastes from incineration or pyrolysis of waste		
19 01 07 *	Solid wastes from gas treatment		
19 01 11 *	Bottom ash and slag containing hazardous substances		
19 01 13 *	Fly ash containing hazardous substances		
19 01 15 *	Boiler dust containing hazardous substances		
19 04	Vitrified waste and waste from vitrification		
19 04 02 *	Fly ash and other flue-gas treatment wastes		

19 04 03 *	Non-vitrified solid phase		
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- (1) These limits apply exclusively to a landfill site for hazardous waste and do not apply to permanent underground storage facilities for hazardous wastes, including salt mines.
- (2) Any waste marked with an asterisk '\*' is considered as hazardous waste pursuant to Directive 2008/98/EC and is subject to the provisions of that Directive.
- (3) The calculation method laid down in European standards EN 12766-1 and EN 12766-2 shall apply.
- (4) The limit is calculated as PCDD and PCDF according to the following toxic equivalency factors (TEFs):

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

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

(\*) OJ L 182, 16.7.1999, p. 1.

(\*\*) OJ L 11, 16.1.2003, p. 27.