



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 31.5.2006
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Proposal for a

COUNCIL REGULATION

amending Annex V to Regulation (EC) No 850/2004 of the European Parliament and of the Council on persistent organic pollutants and amending Directive 79/117/EEC

(presented by the Commission)

EXPLANATORY MEMORANDUM

Article 7(5) of Regulation 850/2004/EC on persistent organic pollutants provides that concentration limits in Annex V shall be established for the purposes of paragraph 4(b) before 31 December 2005, in accordance with the procedure referred to in Article 17(2). In accordance with Article 17(1), the Commission shall be assisted by the Committee established by Article 18 of Directive 75/442/EEC, for matters relating to waste under this Regulation.

Accordingly, the Commission submitted a draft Regulation for vote in the Committee established under Article 18 of Directive 75/442/EEC on waste on 25 January 2006. There was no qualified majority for the draft Regulation.

Thus in accordance with the procedure set out in Article 5 of Decision 1999/468/EC a Proposal for a Council Regulation is submitted to Council. If the Council has not acted within three months from the date of referral of the proposal, the proposed measures shall be adopted by the Commission.

Proposal for a

COUNCIL REGULATION

amending Annex V to Regulation (EC) No 850/2004 of the European Parliament and of the Council on persistent organic pollutants and amending Directive 79/117/EEC

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

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/EEC¹, and in particular the first subparagraph of Article 7(5), Article 7(6), and Article 14(3) thereof,

Whereas:

- (1) The Commission conducted a study on the implementation of the waste-related provisions of Regulation No (EC) 850/2004. The study established maximum concentration limits for the purpose of part 2 of annex V of Regulation (EC) 850/2004. Beyond that, risks to human health and the environment may not be excluded. Therefore Annex V of Regulation (EC) No 850/2004 should be amended accordingly.
- (2) For toxaphene, a mixture of over 670 substances, no agreed and relevant analytical methodology to determine the total concentration is available. However the above mentioned study has not identified any stocks consisting of, containing or contaminated with toxaphene in the European Union. In addition the study demonstrates that, whenever any persistent organic pollutant pesticides were detected in wastes, their concentrations were usually high when compared with the proposed concentration limits. Therefore, for the time being, the available analytical methodologies for the determination of toxaphene can be considered as sufficiently fit for the purpose of this Regulation.
- (3) The concentration limit for PCDF/PCDD is expressed in toxic equivalent concentration ("TEQ"), using the 1998 World Health Organisation toxic equivalency factors ("TEFs"). Available data on dioxin-like PCB is not sufficient to include these compounds in the TEQ.
- (4) Hexachlorocyclohexane (HCH) is the name of a technical mixture of various isomers. The effort to completely analyse them would be inadequate. Only alpha-, beta- and gamma-HCH is of toxicological relevance. Therefore the concentration limit

¹ OJ L 158, 30.4.2004, p. 7; corrected version in OJ L 229, 29.6.2004, p. 5.

exclusively refers to them. Most commercially available analytical standard mixtures for the analyses of this compound class only identify these isomers.

- (5) The measures provided for in this Regulation are the most appropriate to ensure a high level of protection.
- (6) The Committee established under Article 17(1) of Regulation (EC) No 850/2004 has not delivered an opinion on the measures laid down in a draft Commission Regulation, following its consultation, on 25 January 2006, in accordance with the procedure laid down in Article 17(2) of that Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex V to Regulation (EC) No 850/2004 is 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 be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

ANNEX

The table in Part 2 of Annex V to Regulation (EC) No 850/2004 is replaced by the following:

Wastes as classified in Commission Decision 2000/532/EC		Maximum concentration limits of substances listed in Annex IV ⁵	Operation
10	WASTES FROM THERMAL PROCESSES	Aldrin: 5000 mg/kg; Chlordane:	Permanent storage only in: – safe, deep, underground, hard rock formations, – salt mines or – 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 19 03 of Decision 2000/532/EC) whereby the provisions of Council Directive 1999/31/EC ² and Council Decision 2003/33/EC ³ have to be adhered to and whereby it has been demonstrated that the selected operation is environmentally preferable.
10 01	Wastes from power stations and other combustion plants (except 19)	5000 mg/kg; Dieldrin:	
10 01 14 (*) ⁴	Bottom ash, slag and boiler dust from co-incineration containing dangerous substances	5000 mg/kg; Endrin: 5000 mg/kg Heptachlor:	
10 01 16 (*)	Fly ash from co-incineration containing dangerous substances	5000 mg/kg; Hexachlorobenzene:	
10 02	Wastes from the iron and steel industry	5000 mg/kg; Mirex: 5000 mg/kg; Toxaphene: 5000 mg/kg; Polychlorinated Biphenyls (PCB) ⁶ : 50 mg/kg DDT (1,1,1-trichloro-2,2-bis(4-chlorophenyl) ethane): 5000 mg/kg; Chlordecone: 5000 mg/kg; Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/PCDF) ⁷ 5 mg/kg; the sum of alpha-, beta- and gamma- HCH: 5000 mg/kg; Hexabromobiphenyl: 5000 mg/kg	

² Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.7.1999, p. 1). Directive as last amended by Regulation (EC) No 1882/2003.

³ Council Decision 2003/33/EC of 19 December 2002 establishing criteria and procedures for the acceptance of waste and landfills pursuant to Article 16 of and Annex II to Directive 1999/31/EC (OJ L 11, 16.1.2003, p. 27).

10 02 07 (*)	Solid wastes from gas treatment containing dangerous substances		
10 03	Wastes from aluminium thermal metallurgy		
10 03 04 (*)	Primary production slags		
10 03 08 (*)	Salt slags from secondary production		
10 03 09 (*)	Black drosses from secondary production		
10 03 19 (*)	Flue-gas dust containing dangerous substances		
10 03 21 (*)	Other particulates and dust (including ball-mill dust) containing dangerous substances		
10 03 29 (*)	Wastes from treatment of salt slags and black drosses containing dangerous substances		
10 04	Wastes from lead thermal metallurgy		
10 04 01 (*)	Slags from primary and secondary production		
10 04 02 (*)	Dross and skimmings from primary and secondary production		
10 04 04 (*)	Flue-gas dust		
10 04 05 (*)	Other particulates and dust		
10 04 06 (*)	Solid wastes from gas treatment		
10 05	Wastes from zinc thermal metallurgy		
10 05 03 (*)	Flue-gas dust		
10 05 05 (*)	Solid waste from gas treatment		
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		
10 08 08 (*)	Salt slag from primary and secondary production		
10 08 15 (*)	Flue-gas dust containing dangerous substances		
10 09	Wastes from casting of ferrous pieces		
10 09 09 (*)	Flue-gas dust containing dangerous 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 dangerous substances		
16 11 03 (*)	Other linings and refractories from metallurgical processes containing dangerous 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 dangerous substances.		
17 05	Soil including excavated soil from contaminated sites, stones and dredging spoil		
17 05 03 (*)	Inorganic fraction of soil and stones containing dangerous 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 containing dangerous 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 dangerous substances		
19 01 13 (*)	Fly ash containing dangerous substances		
19 01 15 (*)	Boiler dust containing dangerous 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		

⁴ Any waste marked with an asterisk (*) is considered as hazardous waste pursuant to Directive 91/689/EEC on hazardous waste (OJ L 337, 31. 12 .1991, p. 20. Directive as amended by Directive 94/31/EC, OJ L 168, 2. 7. 1991, p. 28), and is subject to the provisions of that Directive.

⁵ The limits exclusively apply to a landfill site for hazardous waste.

⁶ Where applicable, the calculation method laid down in European standards EN 12766-1 and EN 12766-2 shall be applied.

⁷ 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	0.0001
PCDF	
2,3,7,8-TeCDF	0.1
1,2,3,7,8-PeCDF	0.05
2,3,4,7,8-PeCDF	0.5
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	0.0001