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(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EC) No 172/2007

of 16 February 2007

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

(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 [1], and in particular Article 7(5) first subparagraph, 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 (EC) No 850/2004. This study identified maximum concentration limits for the purpose of Part 2 of Annex V of Regulation (EC) No 850/2004. Above those limits, risks to human health and the environment could not be excluded.

(2) The concentration limit for Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDF/PCDD) is expressed in toxic equivalent concentration (TEQ), using the 1998 World Health Organisation toxic equivalency factors (TEFs). Available data on dioxin like Polychlorinated Biphenyl (PCB) is not sufficient to include these compounds in the TEQ.

(3) Hexachlorocyclohexane (HCH) is the name of a technical mixture of various isomers. The effort necessary to analyse them completely would be disproportionate. Only alpha-, beta- and gamma-HCH are of toxicological relevance. Therefore the concentration limit should refer to them exclusively. Most commercially available analytical standard mixtures for the analyses of this compound class only identify these isomers.

(4) The measures provided for in this Regulation are the most appropriate to ensure a high level of protection.

(5) Regulation (EC) No 850/2004 should therefore be amended accordingly.

(6) The Committee established under Article 17(1) of Regulation (EC) No 850/2004 has not delivered an opinion 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

Annex V to Regulation (EC) No 850/2004 is amended as set out in the Annex to this Regulation.

Article 2

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

[1] OJ L 158, 30.4.2004, p. 7. Corrected version in OJ L 229, 29.6.2004, p. 5.

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

Done at Brussels, 16 February 2007.

For the Council
The President
A. SCHAVAN

ANNEX

Part 2 of Annex V to Regulation (EC) No 850/2004 shall be replaced by the following:

'Part 2 Wastes and operations to which Article 7(4)(b) applies

The following operations are permitted for the purposes of Article 7(4)(b) in respect of the wastes specified, defined by the six-digit code as classified in Commission Decision 2000/532/EC (*)

Wastes as classified in Commission Decision 2000/532/EC		Maximum concentration limits of substances listed in Annex IV (1)	Operation
10	WASTES FROM THERMAL PROCESSES	Aldrin: 5 000 mg/kg; Chlordane: 5 000 mg/kg; Dieldrin: 5 000 mg/kg; Endrin: 5 000 mg/kg; Heptachlor: 5 000 mg/kg; Hexachlorobenzene: 5 000 mg/kg; Mirex: 5 000 mg/kg; Toxaphene: 5 000 mg/kg; Polychlorinated Biphenyls (PCB) (3): 50 mg/kg; DDT (1,1,1-trichloro-2,2-bis (4-chlorophenyl)ethane): 5 000 mg/kg; Chlordecone: 5 000 mg/kg; Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/PCDF) (6) 5 mg/kg; the sum of alpha-, beta- and gamma-HCH: 5 000 mg/kg; Hexabromobiphenyl: 5 000 mg/kg	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 1903 of Decision 2000/532/EC) whereby the provisions of Council Directive 1999/31/EC (4) and Council Decision 2003/33/EC (5) 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)		
10 01 14 * (2)	Bottom ash, slag and boiler dust from co-incineration containing dangerous substances		
10 01 16 *	Fly ash from co-incineration containing dangerous substances		
10 02	Wastes from the iron and steel industry		
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		

Wastes as classified in Commission Decision 2000/532/EC		Maximum concentration limits of substances listed in Annex IV [1]	Operation
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		

Wastes as classified in Commission Decision 2000/532/EC		Maximum concentration limits of substances listed in Annex IV [1]	Operation
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		

Wastes as classified in Commission Decision 2000/532/EC		Maximum concentration limits of substances listed in Annex IV (1)	Operation
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		

(1) These limits exclusively apply 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 91/689/EEC and is subject to the provisions of that Directive.
(3) Where applicable, the calculation method laid down in European standards EN 12766-1 and EN 12766-2 shall be applied.
(4) Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.7.1999, p. 1). Directive as amended by Regulation (EC) No 1882/2003.
(5) Council Decision 2003/33/EC of 19 December 2002 establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of and Annex II to Directive 1999/31/EC (OJ L 11, 16.1.2003, p. 27).
(6) The limit is calculated as PCDD and PCDF according to the following toxic equivalency factors (TEFs):

	TEF
PCDD	
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

(*) Commission Decision 2000/532/EC of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste (OJ L 226, 6.9.2000, p. 3). Decision as last amended by Council Decision 2001/573/EC (OJ L 203, 28.7.2001, p. 18).'