Persistent organic pollutants. Recast

2018/0070(COD) - 18/04/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 443 votes to 51, with 55 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on persistent organic pollutants (recast).

The proposed recast of the Persistent Organic Pollutants (POPs) Regulation updates the Annexes in accordance with the decisions taken in 2015 and 2017 during the meetings of the Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants. In addition, the update defines a new role for the European Chemicals Agency (ECHA), which is now responsible for supporting the Commission's work in preparing substance dossiers.

The European Parliament’s position adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

Objective and subject matter

Taking into account, in particular, the precautionary principle, the objective of this Regulation is to protect human health and the environment from POPs by prohibiting, phasing out as soon as possible, or restricting the manufacturing, placing on the market and use of substances subject to the Stockholm Convention on Persistent Organic Pollutants or the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants, by minimising, with a view to eliminating where feasible as soon as possible, releases of such substances, and by establishing provisions regarding waste consisting of, containing or contaminated by any of those substances.

Where appropriate, Member States may apply stricter requirements than those provided for in the Regulation, in accordance with the Treaty on the Functioning of the European Union.

Control measures and exceptions

The new Regulation shall prohibit the manufacture, placing on the market and use of substances listed in Annexes I and II either as such, in mixtures or in articles except (i) in the case of a substance intended for use in laboratory research or as a reference standard or (ii) in the case of a substance present in substances, mixtures or articles as an unintentional trace contaminant.

The amended text adds decaBDE to the list of controlled substances and sets the value of unintentional contamination of a substance at 10 mg/kg for cases where decaBDE is present in substances. It sets this value at 500 mg/kg for the sum of all polybrominated diphenyl ethers (tetraBDE, pentaBDE, hexaBDE, hexaBDE, heptaBDE and decaBDE) in mixtures or articles, with a review and assessment of this threshold by the Commission to be carried out no later than two years after the date of entry into force of the Regulation. This review shall assess, *inter alia*, all relevant impacts on health and the environment.

In addition, specific derogations concerning the use of decaBDE are introduced for aircraft, motor vehicles and electronic equipment, also in the case of imports.

For short-chain chlorinated paraffins (SCCPs), the text introduces a derogation from the prohibition on manufacture, placing on the market and use for substances or mixtures containing SCCPs in concentrations lower than 1 % by weight or articles containing SCCPs in concentrations lower than 0,15 % by weight shall be allowed.

Notification

Where a substance is listed in Part A of Annex I or in Part A of Annex II, a Member State wishing to permit, until the deadline specified in the relevant Annex, the manufacturing and use of that substance as a closed-system site-limited intermediate shall notify accordingly the Secretariat of the Convention.

Such notification may be made only if the following conditions are satisfied:

- the manufacturer demonstrates to the competent authority of the Member State in which the manufacturer is established that the manufacturing process will transform the substance into one or more other substances that do not exhibit the characteristics of a POP, ensuring that it is rigorously contained by technical means during its whole life cycle;

- the manufacturer demonstrates to the competent authority of the Member State in which the manufacturer is established that the substance is a closed-system site-limited intermediate and that it is not expected that either humans or the environment will be exposed to any significant quantities of the substance during its production and use;

- the manufacturer informs the Member State on the details of actual or estimated total manufacturing and use of the substance concerned and the nature of the closed-system site-limited process, specifying the amount of any non-transformed and unintentional trace contamination by any POP starting material in the final substance, mixture or article.

Monitoring and review

The Commission shall:

- regularly assess the possible need for the mandatory monitoring of a substance listed in Part B of Annex III. In the light of such an assessment and any data made available to it by Member States, the Commission is empowered to adopt delegated acts to amend Annex III in order to move, where appropriate, a substance from Part B of Annex III to Part A thereof;

- keep Annexes IV and V under constant review and shall, where appropriate, make legislative proposals to amend these Annexes in order 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 in order to adapt them to scientific and technical progress.