

## POPs Recast Regulation of the EU

Persistent Organic Pollutants (POPs) are initially controlled by the EU in April 2004, under Regulation (EC) No 850/2004, which formed a common legal framework for the measures to eliminate the production, placing on the market and use of intentionally produced POPs.

Regulation (EC) No 850/2004 has been substantially amended several times since its publication, and a Recast Regulation (EU) 2019/1021 has been published on 20 June 2019 and will become effective on 15 July 2019.

Manufacturers and economic stakeholders should be aware of the changes as stipulated here as a summary or refer to the regulation in details.

### 1. Definitions of Terms

In the Recast POPs Regulation (EU 2019/1021), more than a dozen of terms were re-defined, providing a much more coherence to the *REACH Regulation (EC) No 1907/2006*; and *Waste Framework Directive 2008/98/EC*. See table 1 for the details.

### 2. Control list (Part A of Annex 1)

Substance	Old POPs Regulation (EU 850/2004)	Recast POPs Regulation (EU 2019/1021)
Tetra-*, penta-*, hexa-* hepta-* and deca-BDE* (as an unintentional trace contaminant)	≤ 10 mg/kg each of tetra-, penta-, hexa- and hepta-BDE in substances, preparations, articles or parts thereof (Deca-BDE not listed)	≤ 10 mg/kg each in substances ≤ 500 mg/kg (sum in mixtures or articles) (subject to be reviewed by July 16, 2021)
PCP, its salts and esters	-	No specific exemption on intermediate use or other specification
Effective Date	Repeal by POPs Recast on July 15, 2019	July 15, 2019

\*Certain exemptions apply

POPs listed in the Control List shall not be manufactured, placing on the market of use in substances, mixtures or articles, unless exemption applies.

References:

REGULATION (EU) 2019/1021: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R1021&from=EN>

REGULATION (EC) No 850/2004: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32004R0850&from=EN>

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Table 1

#	Terms	Old POPs Regulation (EU 850/2004)	Recast POPs Regulation (EU 2019/1021)
1	placing on the market	supplying or making available to third persons against payment or free of charge. Imports into the customs territory of the Community shall also be deemed to be placed on the market;	supplying or making available, whether in return for payment or free of charge, to a third party. Import shall be deemed to be placing on the market; -- <i>point 12 of Article 3 of Regulation (EC) No 1907/2006;</i>
2	article	an object composed of one or more substances and/or preparations which during production is given a specific shape, surface or design determining its end use function to a greater extent than its chemical composition does;	an object which during production is given a special shape, surface or design which determines its function to a greater degree than does its chemical composition; -- <i>point 3 of Article 3 of Regulation (EC) No 1907/2006;</i>
3	substance	<i>as defined in Article 2 of Council Directive 67/548/EEC</i>	a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition; -- <i>point 1 of Article 3 of Regulation (EC) No 1907/2006;</i>
4	mixture	-	a mixture or solution composed of two or more substances; -- <i>point 2 of Article 3 of Regulation (EC) No 1907/2006;</i>
5	manufacturing	-	production or extraction of substances in the natural state; -- <i>point 8 of Article 3 of Regulation (EC) No 1907/2006;</i>
6	use	-	any processing, formulation, consumption, storage, keeping, treatment, filling into containers, transfer from one container to another, mixing, production of an article or any other utilisation; -- <i>point 24 of Article 3 of Regulation (EC) No 1907/2006;</i>
7	import	-	the physical introduction into the customs territory of the Community; -- <i>point 10 of Article 3 of Regulation (EC) No 1907/2006;</i>
8	waste	any substance or object in the categories set out in Annex I which the holder discards or intends or is required to discard. The Commission, acting in accordance with the procedure laid down in Article 18, will draw up, not later than 1 April 1993, a list of wastes belonging to the categories listed in Annex I. This list will be periodically reviewed and, if necessary, revised by the same procedure; -- <i>as defined in Article 1(a) of Council Directive 75/442/EEC 2</i>	any substance or object which the holder discards or intends or is required to discard; -- <i>point 1 of Article 3 of Directive 2008/98/EC;</i>
9	disposal	any of the operations provided for in Annex II, A (Disposal Operations); -- <i>as defined in Article 1(e) of Directive 75/442/EEC</i>	any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy. Annex I sets out a non-exhaustive list of disposal operations; -- <i>point 19 of Article 3 of Directive 2008/98/EC;</i>
10	recovery	any of the operations provided for in Annex II, B (Recovery Operations); -- <i>as defined in Article 1(f) of Directive 75/442/EEC</i>	any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy. Annex II sets out a non-exhaustive list of recovery operations; -- <i>point 15 of Article 3 of Directive 2008/98/EC;</i>
11	closed-system site-limited intermediate	-	a substance that is manufactured for, and consumed in or used for chemical processing in order to be transformed into another substance ('synthesis') and where the manufacture of the intermediate and the synthesis of one or more other substances from that intermediate take place on the same site, by one or more legal entities, under strictly controlled conditions in that it is rigorously contained by technical means during its whole life cycle;
12	unintentional trace contaminant	-	a level of a substance that is incidentally present in a minimal amount, below which the substance cannot be meaningfully used, and above the detection limit of existing detection methods to enable control and enforcement;
13	stockpile	-	substances, mixtures or articles accumulated by the holder that consist of or contain any substance listed in Annex I or II.
14	preparation	mixtures or solutions composed of two or more substances. -- <i>as defined in Article 2 of Directive 67/548/EEC</i>	-