

T: 0300 244 4000
E: scottish.ministers@gov.scot

Edward Mountain MSP
Convener of the Net Zero, Energy and Transport
Committee
Scottish Parliament
Edinburgh
EH99 1SP
Email: netzero.committee@parliament.scot

Copied to UKSIs@parliament.scot

21 May 2024

Dear Edward,

**THE PERSISTENT ORGANIC POLLUTANTS (AMENDMENT) REGULATIONS 2024 -
(Defra/ENV/274) EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT**

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas arising from EU Exit.

That protocol, as agreed between the Scottish Government and then Parliament, accompanied the letter from the then Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, to the Conveners of the Finance & Constitution and Delegated Powers and Law Reform Committees on 4 November 2020 and replaced the previous protocol that was put in place in 2018.

I attach a Type 1 notification which sets out the details of the SI which the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in this SI. Please note, we are yet to have sight of the final SI and it is not available in the public domain at this stage. We will, in accordance with the protocol, advise you when the final SI is laid and advise you as to whether the final SI is in keeping with the terms of this notification.

The purpose of this instrument is to amend Regulation (EU) 2019/1021 of the European Parliament and of the Council concerning the Persistent Organic Pollutants (POPs) (“the UK POPs regulation” which is now assimilated law) to implement the changes to the Stockholm Convention on Persistent Organic Pollutants which were adopted by the Conference of the Parties to the Stockholm Convention in May 2023. Specifically, the instrument will implement the changes to the list of substances set out in Annex A to the Convention on the manufacture, use and placing on the market of articles and substances containing POPs.

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The SI also revises and adds new conditions to substances in Annexes IV and V of the UK POPs regulation, which relate to the disposal of waste containing POPs. These proposed changes go beyond the requirements of the Convention and are designed to give certainty to operators and industry on their responsibilities when dealing with POPs waste.

Defra intend to lay this SI on 20 June 2024 with a coming into force date of 1 October 2024.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

I look forward to hearing from you by 18 June 2024.

Yours sincerely,



MÀIRI MCALLAN

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St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot

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NOTIFICATION TO THE SCOTTISH PARLIAMENT

Name of the SI(s)

The Persistent Organic Pollutants (Amendment) Regulations 2024

Is the notification Type 1 or Type 2

Type 1

Brief overview of the SI (including reserved provision)

The Persistent Organic Pollutants (Amendment) Regulations 2024 (“the 2024 regulations”) amend Regulation (EU) 2019/1021 of the European Parliament and of the Council concerning the Persistent Organic Pollutants (POPs) (“the UK POPs regulation”) to enact three new additions to the list of substances as required under Annex A to the Stockholm Convention on Persistent Organic Pollutants (POPs). The 2024 regulations amend Annex I (*Substances listed in the Convention and in the Protocol as well as substances listed only in the Convention*) to the UK POPs regulation to make this change.

The 2024 regulations also: amend three existing entries in Annex I; amend one entry and insert four new entries to Annex IV (*List of substances subject to waste management provisions set out in Article 7*); and insert two new waste classification descriptions, amend one and insert four new maximum concentration limits to Part 2 of Annex V (*Wastes and operations to which Article 7(4)(b) applies*).

The addition of the three new substances to Annex I is required for the UK to meet its obligations under the Convention. The EU have yet to amend their regulations to include these substances into Annex I in order to implement the requirements of Convention (to which it is also a party). However, the EU have previously made amendments to Annexes IV and V, with which the 2024 regulations will mostly align. Exceptions are due to queries relating to the evidence base.

The UK Government intends to lay the 2024 regulations at Westminster under the affirmative procedure on 20 June 2024, and they will come into force on 1 October 2024.

Details of the provisions that Scottish Ministers are being asked to consent to.

Regulation (EU) 2019/1021 of the European Parliament and of the Council on Persistent Organic Pollutants (“the EU POPs regulation”) is the mechanism by which the EU and its member states, including the UK while it was a member state, implemented the provisions of the Stockholm Convention on Persistent Organic Pollutants through the elimination and restriction of the manufacture and use of chemicals that have been internationally recognised as toxic, persistent, bio-accumulative and subject to long range transport in the environment. On IP

completion day, the EU POPs regulation was converted into retained EU law and became the UK POPs regulation. The UK POPs regulation is now assimilated law.

The 2024 regulations are made under articles 7(6), 15(1), 15(2) and 18(1) of the UK POPs regulation. They amend the UK POPs regulation to implement the changes adopted by the Conference of Parties to the Stockholm Convention, at its eleventh meeting in May 2023, whereby Dieldrin and UV-328 were listed in Annex A to the Convention, with a range of specific exemptions, whilst methoxychlor was listed in Annex A, without specific exemptions, as well as some changes to existing POPs entries. The 2024 regulations make amendments to Annexes I, IV and V of the UK POPs regulation.

Substances listed in **Annex I** of the UK POPs regulation are prohibited from being manufactured, placed on the market, and used, unless there is a relevant exemption. Article 7 of the UK POPs regulation sets out the waste management requirements for POP substances, with sub-paragraph 4 (a) setting out a derogation stating that waste containing or contaminated by any substance listed in **Annex IV** may be otherwise disposed of or recovered in accordance with the relevant legislation, provided that the content of the listed substances in the waste is below the concentration limits specified in Annex IV. Furthermore, the UK POPs regulation includes a derogation in part 2 of Annex V that allows for an application to permanently store certain wastes (as listed in **Annex V** of the UK POPs regulation) in designated landfill for hazardous waste or disused salt mine, where it can be demonstrated that destruction is not the environmentally preferred option.

Amendments were previously made to the UK POPs regulation, including Annex I, by the Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2020 (“the 2020 regulations”) to ensure that it functioned in the UK on IP completion day. The Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2022 made further amendments to Annex I of the UK POPs regulation to address outstanding deficiencies and correct previous amendments made by the 2020 regulations. Furthermore, the Persistent Organic Pollutants (Amendment) Regulations 2023 and the Persistent Organic Pollutants (Amendment) (No. 2) Regulations 2023 amended Annex I to extend the exemption for perfluorooctanoic acid (PFOA) and its derivatives, and to include the Convention Annex A listing of perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds in Annex I, respectively.

Annex I of the UK POPs regulation

Substances listed in **Annex I** of the UK POPs regulation are prohibited from being manufactured, placed on the market, and used, unless a relevant exemption applies.

The 2024 regulations will amend column 4 of Annex I (*Specific exemption on intermediate use or other specification*) to insert the substances Dieldrin, including its syn-isomer and anti-isomer, Methoxychlor and UV-328. In addition, the 2024 regulations will amend the entries for Hexachlorobenzene, Pentachlorophenol, any of its salts, and any of its esters, and Perfluorooctanoic acid (PFOA) and its salts and PFOA-related compounds in Annex I column 4. The amendments insert certain values that place concentration limits for the substances as unintentional tract

contaminant (UTC) in other substances, mixtures or articles. The proposed UTC limits apply where:

- the concentration of **Dechlorane Plus** present in a substance, mixture or article is equal to or below 10 mg/kg (0.001% by weight).
- the concentration of **Methoxychlor** present in a substance, mixture or article is equal to or below 0.01 mg/kg (0.000001% by weight).
- the concentration of **UV-328** present in a substance, mixture or article is equal to or below 10 mg/kg (0.001% by weight).
- the concentration of **Hexachlorobenzene** present in a substance, mixture or article equal to or below 10 mg/kg (0.001% by weight).
- the concentration of **Pentachlorophenol, any of its salts, and any of its esters** present in a substance, mixture or article equal to or below 5 mg/kg (0.0005% by weight); and
- to concentrations of **Perfluorooctanoic acid (PFOA) and its salts** and PFOA-related compounds equal to or below 0.025 mg/kg (0,0000025% by weight) where they are present in polytetrafluoroethylene (PTFE) micropowders produced by ionising irradiation or by thermal degradation, as well as in mixtures and articles for industrial and professional uses containing PTFE micropowders. This entry further states that all emissions of PFOA during the manufacture and use of PTFE micropowders shall be avoided and, if not possible, reduced as far as possible. An exception to this UTC shall apply only to manufacture, placing on the market and use of PFOA and its salts where they are present in PTFE micropowders that are transported or treated for the purpose of reducing the concentration, where a limit of 1 mg/kg (0,0001% by weight) applies.

The 2024 regulations will also remove the UTC for the use of PFOA for transported isolated intermediates (chemicals transported for use in the manufacture of another substance and not present in the final product).

The addition of these UTC values is necessary to provide regulatory certainty for industry for processes and products that may include the substances as unintentional trace contaminants (listing makes the intentional use of the substance an offence). This mirrors the approach used by the EU, whereby the EU lists POPs in Annex I with UTCs as standard.

The table in Part A of Annex I (*Substances listed in the Convention and in the Protocol as well as substances listed only in the Convention*) also applies timebound exemptions, where the UK Government as a Convention signatory has exercised an exemption permitted by the Convention. The 2024 regulations amend the entry for PFOA and inserts exemptions for Dechlorane Plus, including its syn-isomer and anti-isomer, and UV-328, as follows:

- Point 7 of the **PFOA** will be amended so that the exemption is “The use of perfluorooctyl bromide containing perfluorooctyl iodide for the purpose of producing pharmaceutical products is allowed until 31 December 2026,” removing additional text that refers to the need to review and assess the exemption every four years thereafter up to 31 December 2036.

- The new entry for **Dechlorane Plus** will allow its placing on the market and use “for replacement parts for, and repair of, land-based motor vehicles where Dechlorane Plus was originally used in the manufacture of the part being replaced or repaired until the earlier of— (i) the end of the service life of the [vehicle], and (ii) 2044.”
- The new entry for **UV- 328** will allow its manufacturing, placing on the market and use for the following purposes— (a) mechanical separators in blood collection tubes, until 26 February 2030; (b) replacement parts for [land-based motor vehicles] where UV-328 was used in the manufacture of the part being replaced, until the earlier of— (i) the end of the service life of the vehicle, and (ii) 2044.”

The insertion of the exemptions for Dechlorane Plus and UV-328 are to enable industry to transition away from using these substances in their products, whilst providing deadlines to cease replacement parts and repairs either at the end of the service life of the vehicle or by a 2044. Evidence from the UK Government stakeholder consultation has allowed for the removal from the PFOA exemption of the requirement for review and assessment every four years.

Annex IV of the UK POPs regulation

Annex IV lists concentration limits for POPs in waste; where a POP is present above that concentration, operators would be required to adhere to the UK POPs regulation provisions (wastes must be treated in such a way that the POPs content is destroyed or irreversibly transformed).

The 2024 regulations will amend some entries in the table in Annex IV (List of substances subject to waste management provisions set out in Article 7), as follows:

- the waste limit for the sum of the concentrations of POPs known collectively as polybrominated diphenylethers, PBDEs) tetrabromodiphenyl ether, pentabromodiphenyl ether, hexabromodiphenyl ether, heptabromodiphenyl ether and **decabromodiphenyl ether** (this substance is added to tally with its previous addition to Annex I) is reduced from 1,000 mg/kg to 500 mg/kg. In addition, the 2024 regulations remove the existing two sentences that require the 1000 mg/kg limit to be reviewed and lowered to 500mg/kg, if appropriate, and for this review to be carried out by 16 July 2021, as this amendment fulfils this requirement and takes this action.

The 2024 regulations also add four new concentration limits for existing POPs, as follows, to Annex IV. Although all four of these POPs are currently listed in the UK POPs regulation, there are no concentration limits listed for them.

| POP name | Concentration threshold (<i>of POP in material inc wastes</i>) |
|--------------------------------------------|--------------------------------------------------------------------------------------|
| Pentachlorophenol and its salts and esters | Sum of the concentrations of Pentachlorophenol, its salts, and its esters: 100 mg/kg |

| | |
|-------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds | <p>1. Except in concentrated fire-fighting foam mixtures—</p> <p>(a) sum of the concentrations of PFOA and its salts: 1 mg/kg;</p> <p>(b) sum of the concentrations of PFOA-related compounds: 40 mg/kg.</p> <p>2. In concentrated fire-fighting foam mixtures—</p> <p>(a) sum of the concentrations of PFOA and its salts: 0.025 mg/kg;</p> <p>(b) sum of the concentrations of PFOA-related compounds: 1 mg/kg.</p> |
| Dicofol | 50 mg/kg |
| Perfluorohexane sulfonic acid (PFHxS), its salts, and PFHxS-related compounds (as defined in Annex I) | <p>Sum of the concentrations of PFHxS and its salts: 1 mg/kg;</p> <p>Sum of the concentrations of PFHxS-related compounds: 40 mg/kg.</p> |

The addition of these waste limit values is necessary to provide regulatory certainty for industry with regard to concentration levels of these substances in wastes, which dictates the appropriate waste management requirements. In the case of the PFOA entry, information on stockpiles of fire fighting foams indicates that PFOA may be present above 0.025 mg/kg but below 1 mg/kg in some foams. Further investigation and testing of current stocks would be required to accurately determine the quantity of foams containing PFOA¹.

Annex V of the UK POPs regulation

The UK POPs regulation includes a derogation that allows for an application to permanently store certain wastes (as listed in Annex V of the UK POPs regulation) in designated landfill for hazardous waste, where it can be demonstrated that destruction is not the environmentally preferred option. That derogation is only available for a limited number of waste streams that are listed in Annex V, and, where hazardous waste landfill is the intended disposal option, only where the concentration of the POP is present below a maximum concentration limit. Only one derogation has been granted in the UK and that is for salt mine disposal (at a site in England), so the maximum concentration limits have as yet not been applied in the UK.

The 2024 regulations amend the first table in Part 2 of Annex V (*Wastes and operations to which Article 7(4)(b) applies*) by inserting two European Waste

¹ From January 2023, uses of fire-fighting foam that contains or may contain PFOA, its salts and/or PFOA-related compounds were no longer allowed in sites unless releases can be contained, which triggers the need for disposal of stockpiles under article 5 of the POPs regulation. This means much of the PFOA containing firefighting foams may already have been disposed of, with the remaining needing to be taken out of use by July 2025.

Catalogue (EWC) codes (these codes categorise wastes based on a combination of what they are, and the process or activity that produces them):

- “10 01 03 Fly ash from peat and untreated wood”; and
- “Soil and stones other than those mentioned in 17 05 03* (Soil and stones containing hazardous substances)”.

The 2024 regulations also amend the second column of the same table for the maximum concentration limits of specified substances by substituting:

- “Sum of the concentrations of tetrabromodiphenyl ether (C₁₂H₆Br₄O), pentabromodiphenyl ether (C₁₂H₅Br₅O), hexabromodiphenyl ether (C₁₂H₄Br₆O) and heptabromodiphenyl ether (C₁₂H₃Br₇O)” with “Sum of the concentrations of tetrabromodiphenyl ether (C₁₂H₆Br₄O), pentabromodiphenyl ether (C₁₂H₅Br₅O), hexabromodiphenyl ether (C₁₂H₄Br₆O), heptabromodiphenyl ether (C₁₂H₃Br₇O) **and decabromodiphenyl ether (C₁₂Br₁₀O)**”; (the last substance is added to the list of PBDEs following its previous addition to Annex I)

and inserting:

- “Sum of the concentrations of **Pentachlorophenol, its salts, and its esters**: 1,000 mg/kg;
- **Dicofol**: 5,000 mg/kg;
- **Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds** (as defined in Annex I): 50 mg/kg (sum of the concentrations of PFOA and its salts), 2,000 mg/kg (sum of the concentrations of PFOA-related compounds); and
- **Perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds** (as defined in Annex I): 50 mg/kg (sum of the concentrations of PFHxS and its salts), 2,000 mg/kg (sum of the concentrations of PFHxS-related compounds)”.

The addition of these waste limit values is necessary to provide regulatory certainty for industry for the EWC codes able to be used and the relevant maximum concentration limits of the specified substances at a site with a derogation that allows for an application to permanently store certain wastes.

Summary of the proposals

The United Kingdom is a party to the Stockholm Convention. The UK POPs regulation implements the UK’s obligations under the Stockholm Convention in Great Britain, while the EU POPs regulation continues to apply in Northern Ireland. Annex I to the UK POPs regulation contains the substances listed in the Stockholm Convention and in the Protocol to it that are subject to elimination, alongside specific exemptions on continuing necessary uses of those substances.

The UK POPs regulation is assimilated law, and therefore the EU POPs regulation remains in full effect after IP completion day so that the UK is compliant with its obligations under the Stockholm Convention as a signatory to the Convention. The

objective of the Convention is to protect human health and the environment from persistent organic pollutants by prohibiting, phasing out as soon as possible, or restricting the manufacturing, placing on the market and use of POPs.

The purpose of this SI is to (i) implement, in UK law, changes at Convention level and (ii) revise or add new conditions that go beyond the Convention's requirements:

- to add three new POPs (Dechlorane Plus, methoxychlor and UV-328, together with specific exemptions for Dechlorane Plus and UV-328,
- amend Annex I entries for Hexachlorobenzene, Pentachlorophenol and its salts and ethers, and Perfluorooctanoic acid (PFOA), its salts and PFOA related compounds.
- amend concentration limits for a number of existing POPs (tetrabromodiphenyl ether, pentabromodiphenyl ether, hexabromodiphenyl ether, heptabromodiphenyl ether and decabromodiphenyl ether) and insert new concentration limits for others (Pentachlorophenol and its salts and ethers, and Perfluorooctanoic acid (PFOA), its salts and PFOA related compounds, Dicofol, and Perfluorohexane sulfonic acid (PFHxS), its salts, and PFHxS-related compounds) to Annex IV (concentrations limits for POPs in waste); and
- insert two new waste classification descriptions and amend Annex V to the UK POPs regulation so that it matches the revisions to Annex IV, summarised above.

The details of those provisions are set out above.

Chemicals policy, including in relation to POPs, engages a complex mixture of reserved and devolved competence. Environmental protection, waste management and public health are devolved while product safety, animal testing as well as health and safety at work are reserved.

EU Alignment

In relation to Annex I, the 2024 regulations align with the amendments made to the EU POPs regulation by Regulation (EU) 2022/2291 of the European Parliament and the Council of 8 September 2022 on persistent organic pollutants, as effective from 13 December 2022. The changes will therefore bring the UK in line with the EU in relation to the values for concentration limits as UTC in other substances, mixtures or articles for (a) Hexachlorobenzene, (b) Pentachlorophenol, any of its salts or esters, and (c) PFOA, its salts and related compounds.

The 2024 regulations go further than the EU POPs regulation in Annex I in relation to the insertion of three new substances (a) Dechlorate Plus, (b) Methoxychlor, and (c) UV-328. As discussed above, the addition of these new substances were adopted by the Conference of Parties to the Stockholm Convention at its eleventh meeting in May 2023. Therefore, while there is temporary EU misalignment, is expected that the EU POPs regulation will also soon be amended in accordance with the Stockholm Convention.

In relation to Annexes IV and V, the 2024 regulations align with the majority of Regulation (EU) 2022/2400 of the European Parliament and the Council of 23 November 2022 on persistent organic pollutants, as effective from 10 June 2023, which amends the EU POPs regulation.

However, there are some differences between the proposed changes in the 2024 regulations and the amendments made to the EU POPs regulation by Regulation (EU) 2022/2400 for the following substances in Annex IV of the UK POPs regulation. These differences are set out in the following table as some of the EU provisions go beyond the requirements of the Convention.

| EU POPs regulation | 2024 regulations (UK) |
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| <p>Progressively tighten the (new) limit from 500 mg/kg to 200 mg/kg from December 2025 through to December 2027 and beyond for (the sum of) concentrations of the entries for PBDEs tetrabromodiphenyl ether, pentabromodiphenyl ether, hexabromodiphenyl ether, heptabromodiphenyl ether and decabromodiphenyl ether.</p> <p>This change came into force in the EU on 10 June 2023 via Regulation 2022/2400.</p> | <p>Similarly, introduction of a 500 mg/kg limit and inclusion of decabromodiphenyl ether, but no proposal to lower this by a certain date. Evidence from plastic recyclers highlighted the lack of incineration capacity and the impact on disposal costs for lowering this threshold further. UK Government has committed to the 500 mg/kg value in order to provide more time to consider further evidence on introducing a lower limit.</p> |
| <p>New limit of 500 mg/kg for Hexabromocyclododecane (HBCDD) introduced, with a requirement that the “Commission shall review that concentration limit ... to lower that value to not higher than 200 mg/kg no later than 30 Dec 2027.”</p> <p>This change came into force in the EU on 10 June 2023 via Regulation 2022/2400.</p> | <p>Similarly, limit of 500 mg/kg introduced. The 2024 regulations will reduce the limit in GB to 500 mg/kg to align with the limit that has previously been proposed for international consideration at Basel, Rotterdam, Stockholm Conventions Conference of the Parties (BRS COPs). Stakeholder responses to the UK Government consultation also indicated that to further reduce the limit would be constrained by any uncertainty over the presence of, and approach to, analysing HBCDD in coatings and adhesives and mixed waste.</p> |
| <p>A new limit of 5 µg/kg for Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/PCDF) and dioxin-like polychlorinated biphenyls (dl-PCBs) with a requirement that the “Commission shall review that concentration limit ... no later than 30 Dec 2027.”</p> <p>This change came into force in the EU on 10 June 2023 via Regulations 2022/2400.</p> | <p>The limit in GB will remain at 15 µg/kg, due to the uncertainties around potential impacts and most appropriate values.</p> <p>There are evidence gaps in relation to the disposal and treatment of these combustion residues. This change would require an amendment to “Toxic Equivalent Factors”, which also has uncertainty attached. Greater clarity on both issues is expected to arise from evidence through the next Conference of Parties cycle.</p> |
| <p>The Short Chain Chlorinated Paraffins (SCCPs) threshold is 1,500 mg/kg, with a requirement that “The Commission shall</p> | <p>SCCPs limits have not been introduced to the 2024 regulations due to the uncertainties remaining with regard to the</p> |

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| <p>review that concentration limit ... no later than 30 December 2027.”</p> <p>This change came into force in the EU on 10 June 2023 via Regulation 2022/2400.</p> | <p>potential impact on activities such as recycling of PVC cable granulate.</p> |
| <p>Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds in the EU POPs regulations do not note the concentrated fire-fighting foam mixtures as the Annex I PFOA derogation for fire-fighting foams only applied till July 2025.</p> <p>Limits of 1 mg/kg (PFOA and its salts), and 40 mg/kg (sum of PFOA-related compounds) with the requirement ‘The Commission shall review that concentration limit and shall, where appropriate, adopt a legislative proposal to lower that value, where such lowering is feasible in accordance with scientific and technical progress, no later than 30 December 2027.’</p> <p>This change came into force in the EU on 10 June 2023 via regulation 2022/2400.</p> | <p>Same overall limit applied. The expectation was that the EU relevant stockpiles would have been disposed of appropriately by the July 2025 deadline. In the UK it is expected that these foams will be taken out of use, but not necessarily disposed of. For this reason the UK POPs regulation entry includes additionally the exemption to address stockpiles:</p> <p>“2. In concentrated fire-fighting foam mixtures—</p> <p>(a) sum of the concentrations of PFOA and its salts: 0.025 mg/kg;</p> <p>(b) sum of the concentrations of PFOA-related compounds: 1 mg/kg.”</p> |

Whilst in Annex V the two new European Waste Catalogue codes align with EU POPs regulation, a third European waste code ‘20 01 41: wastes from chimney sweeping’ has not been inserted, as this addition provides for the landfilling of separately collected domestic soot and ash, which is not relevant in the UK. The maximum concentration limits in Annex V will align except for dioxins and furans, due to regulatory uncertainties relating to the thresholds used in the EU POPs regulation (see above table). However, the dioxins and furans limits implement the Convention requirements.

Does the SI relate to a common framework or other scheme?

Yes. The UK POPs regulation forms part of the relevant regulations set out within the scope of the provisional Chemicals and Pesticides Common Framework.

Summary of stakeholder engagement/consultation

We have previously written to our stakeholders setting out the general approach we are taking on POPs in Great Britain as a result of legislative changes precipitated by the UK's exit from the EU.

Following the initial proposal of Dechlorane Plus, methoxychlor and UV-328 as POPs in 2021, stakeholders had a number of opportunities to feed into UK or Convention-led public engagement / consultations. This included public calls for information and opportunities to comment on draft risk profile and risk management evaluation documents. The UK-led public engagement sought to understand if any relevant exemptions would need to be applied for to the Convention secretariat. It is understood that Dechlorane Plus and UV-328 would require the use of the exemptions as specified by the Convention.

The UK Government held a [Consultation on potential amendments to the Persistent Organic Pollutants \(POPs\) Regulation](#) (March – April 2023), which included the obligation to meet the Convention's amendment to include Dechlorane Plus, methoxychlor and UV-328 in Annex A. Stakeholders in Scotland were made aware of the consultation and encouraged to respond. The responses to the UK Government's consultation were used to inform decisions to implement POP substances unless compelling evidence was presented. This included: evidence gathering (including consultation responses and additional research and engagement routes); global context, including international conventions, guidelines, and decisions, such as those of the Stockholm, Basel, and Rotterdam Conventions (BRS); scientific and technical progress; consideration of uncertainties surrounding the UK evidence base.

Stakeholder interest in the addition of the three new substances to Annex I is likely to be limited given this prior engagement. Stakeholders may question the wider approach to managing POPs chemicals in waste. The changes will ensure adherence to the requirements of the Stockholm Convention. However, due to uncertainty surrounding the evidence base on POPs in waste, work will be ongoing to determine what further changes, if any, are required for dioxins and furans, short chain chlorinated paraffins (SCCPs), polybrominated diphenyl ethers (PBDEs) and hexabromocyclododecane (HBCDD). This is a particularly complex area of legislation and regulation, and we would expect industry and regulators to welcome government departments working together on making amendments of this nature.

A note of other impact assessments, (if available)

No Scottish impact assessment has been prepared. The UK Government has indicated that this amendment is not expected to have an impact on business. Where the UK Government consultation has identified uncertainties around the potential impacts or the most appropriate concentration limits these have not been included in the 2024 regulations, to allow calls for further information and evidence. UK Government working with the Devolved Governments will continue to review potential amendments to the POPs regulation on an ongoing basis as new evidence is gathered or comes to light.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

The Scottish Ministers consider that consenting to the 2024 regulations is the most effective and transparent way to make these amendments, as it has been agreed that the UK POPs regulation will operate consistently across GB in line with the common frameworks approach. Officials have worked with DEFRA to ensure the drafting delivers for our interests and respects devolved competence in Scotland, and so the Scottish Ministers propose to agree to a GB-wide approach.

Intended laying date (if known) of instruments likely to arise

This instrument is subject to the affirmative procedure and will be laid in draft at Westminster on 20 June 2024.

If the Scottish Parliament does not have 28 days to scrutinise Scottish Ministers' proposal to consent, why not?

The Scottish Parliament has 28 days to scrutinise this proposal.

In order to enable the appropriate parliamentary scrutiny from both the Scottish Parliament and the UK Government and to meet the UK's international obligation to bring into effect the change to the Annex to the Stockholm Convention on Persistent Organic Pollutants the SI is to be laid at Westminster on 20 June 2024.

Information about any time dependency associated with the proposal

Change to the Stockholm Convention on Persistent Organic Pollutants was adopted in Decisions SC-11/9, SC-11/10, and SC-11/11 (Listing of methoxychlor, Listing of Dieldrin and Listing of UV-328, respectively). UK Government received notification from the Convention on the 26 February 2024, and has 12 months to implement these changes.

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

None.

Any significant financial implications?

None.

Lead Official: Phil Leeks
Environmental Quality & Resilience

SGLD lawyer: Ailsa Heine

Annex A

Polybrominated Diphenyl Ethers (PBDE) are a class of chemicals that were used as additive flame retardants in a range of industrial and consumer goods. A number of these have been identified as POPs and listed in the Stockholm Convention. **DecaBromodiphenyl Ether** (DecaBDE) is the latest of these flame retardants to be added to the Convention. It has many applications and was used in plastics, textiles, coatings etc.. However, in the environment DecaBDE can break down to some of the other PBDE chemicals that were already listed as POPs. These POPs can have adverse effects in birds, fish, frog, rat, mice, and humans.

Dechlorane Plus is used as an additive flame retardant in electrical wire and cable coatings, plastic roofing materials, and as a non-plasticizing flame retardant. In aquatic organisms, Dechlorane Plus affects the developing nervous system and brain.

Dicofol is a pesticide that has been used in agriculture to control mites and used as an acaricide. Dicofol is highly toxic in fish, aquatic invertebrates, and algae.

Hexachlorobenzene (HCB) was used to kill fungi that affect food crops. In high doses, HCB is lethal to some animals and, at lower levels, adversely affects their reproductivity.

Methoxychlor has been used as an insecticide on crops, vegetables, fruits, and for general nuisance pests such as mosquitos and flies. Methoxychlor is toxic to a range of species (extremely toxic for fish, non-toxic to birds and slightly toxic to bees).

Pentachlorophenol (PCP) has been used as pesticide. Exposure to PCP is associated with carcinogenic, renal, and neurological effects.

Perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds is the third (after the previously-listed poly- and perfluoroalkyl substances (PFAS) PFOS and PFOA) most frequently detected PFAS in blood-based samples taken from the general population. Exposure to PFHxS by humans is mainly through the intake of food and drinking water.

Perfluorooctanoic acid (PFOA), its salts, and PFOA-related compounds, were used as surfactants and surface treatment agents in textiles, paper and paints, and in firefighting foams. PFOA has been linked to kidney cancer, testicular cancer, thyroid disease, and pregnancy-induced hypertension.

UV-328 is an additive UV light absorber and is used to protect various materials, mainly polymers, against discoloration and weathering from UV/sunlight. UV-328 has been found to be toxic for mammals, endangering human health and the environment (causing damage to liver and kidney).

SI NOTIFICATION: SUMMARY

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| Title of Instrument |
| The Persistent Organic Pollutants (Amendment) Regulations 2024 |
| Proposed laying date at Westminster |
| 20 June 2024 |
| Date by which Committee has been asked to respond |
| 18 June 2024 |
| Power(s) under which SI is to be made |
| Articles 7(6), 15(1), 15(2) and 18(1) of Regulation (EU) 2019/1021 of the European Parliament and of the Council on persistent organic pollutants (recast). |
| Categorisation under SI Protocol |
| Type 1 |
| Purpose |
| <p>The purpose of this instrument is to amend Regulation (EU) 2019/1021 of the European Parliament and of the Council concerning the Persistent Organic Pollutants (POPs) (“the UK POPs regulation” which is now assimilated law) to implement the change to the list of substances set out in Annex A to the Stockholm Convention on Persistent Organic Pollutants. This instrument also revises and adds new conditions to substances in Annexes IV and V, that go beyond the Convention’s requirements. The EU have yet to amend their regulations to implement the change to the list of substances in Annex I to implement the Stockholm Convention (to which it is also a party). However, the EU have previously made other amendments to Annex I (by Regulation (EU) 2022/2291) and Annexes IV and V (by Regulation (EU) 2022/2400), with which this instrument will mostly align. Exceptions are due to queries relating to the evidence base.</p> <p>This instrument amends Annex I of the UK POPs regulation to include the listing of Dechlorane Plus, Methoxychlor and UV-328, together with specific exemptions for Dechlorane Plus and UV-328. Annex I entries for Hexachlorobenzene, Pentachlorophenol and its salts and ethers, and Perfluorooctanoic acid (PFOA), its salts and PFOA related compounds are also amended to add certain values that place concentration limits for the substances as unintentional tract contaminant (UTC) in other substances, mixtures or articles. Substances listed in Annex I of the UK POPs regulation are prohibited from being manufactured, placed on the market, and used, unless there is a relevant exemption.</p> <p>This instrument amends Annex IV of the UK POPs regulation with concentration limits for a number of existing POPs collectively called polybrominated diphenylethers (PBDEs) and inserts new concentration limits for others (Pentachlorophenol and its salts and ethers, and Perfluorooctanoic acid (PFOA), its salts and PFOA related compounds, Dicofol, and Perfluorohexane sulfonic acid (PFHxS), its salts, and PFHxS-related compounds). Article 7 of the UK POPs regulation sets out the waste management requirements for POP substances, with sub-article 4 (a) stating that waste containing or contaminated by any substance listed in Annex IV may be otherwise disposed of or recovered in accordance with the</p> |

relevant legislation, provided that the content of the listed substances in the waste is below the concentration limits specified in Annex IV.

This instrument amends Annex V of the UK POPs regulation by inserting two new waste classification descriptions and amending the maximum concentration limits for the POPs PBDEs and inserts new maximum concentration limits for others (Pentachlorophenol and its salts and ethers, and Perfluorooctanoic acid (PFOA), its salts and PFOA related compounds, Dicofol, and Perfluorohexane sulfonic acid (PFHxS), its salts, and PFHxS-related compounds). The UK POPs regulation includes a derogation that allows for an application to permanently store certain wastes (as listed in **Annex V** of the UK POPs regulation) in designated landfill for hazardous waste, where it can be demonstrated that destruction is not the environmentally preferred option.

Other information

Change to the Stockholm Convention on Persistent Organic Pollutants was adopted in Decisions SC-11/9, SC-11/10, and SC-11/11 (Listing of methoxychlor, Listing of Dechlorane Plus and Listing of UV-328, respectively). UK Government received notification from the Convention on the 26 February 2024, and have 12 months to implement these changes.

SG Policy contact:

Phil Leeks: Phil.Leeks@gov.scot

[SGLD lawyer: Ailsa Heine ailsa.heine@gov.scot](mailto:ailsa.heine@gov.scot)