

Huw Irranca-Davies AS/MS
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros
Newid Hinsawdd a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate
Change and Rural Affairs



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA/HIDCC/5923/24

Mike Hedges MS Chair,
Legislation, Justice and Constitution Committee
Senedd Cymru
SeneddLJC@senedd.wales

19 September 2024

Dear Mike,

I am writing to inform the Committee of the intention to consent to the UK Government making and laying the Persistent Organic Pollutants (Amendment) Regulations 2024 (“the 2024 Regulations”).

The 2024 Regulations intersect with devolved policy and will apply to Wales. They will be made by the Secretary of State for Environment, Food and Rural Affairs under Articles 7(6), 15(1) and (2) and 18(1) of the Regulation (EU) 2019/1021 of the European Parliament and of the Council on Persistent Organic Pollutants (recast) (“the POPs Regulations”).

The 2024 Regulations apply in relation to England, Scotland and Wales and are subject to the affirmative procedure. They are due to be laid before Parliament on 8 October 2024. Article 2A(c) of the POPs Regulations provides that the Regulations can be made by the Welsh Ministers in relation to Wales, or by the Secretary of State with the consent of the Welsh Ministers.

A similar request for consent has been sent to Scottish Ministers and my predecessor received a letter from Lord Douglas-Miller, Minister for Biosecurity, Animal Health and Welfare requesting consent to the 2024 Regulations in March 2024. The Scottish Government has provided consent.

The 2024 Regulations

The 2024 Regulations amend Annexes I, IV and V of the POPs Regulations. Amendments are required to the entries for Hexachlorobenzene, Pentachlorophenol and Perfluorooctanoic acid in Annex I to ensure that the UK continues to meet its legal obligations as signatories to the Stockholm Convention on Persistent Organic Pollutants. Annexes IV and V are amended to reflect scientific and technical progress

Annex IV is amended and new substances added to the list of those subject to waste management provisions. Article 7 of the POPs Regulations provides that *“Producers and holders of waste shall undertake all reasonable efforts to avoid, where feasible, contamination*

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

of this waste with substances listed in Annex IV". Regulation 7 of the Persistent Organic Waste Regulations 2007 provides it is an offence for a person to contravene Article 7. Adding substances to the list in Annex IV ultimately widens the scope of that offence.

Article 7(4)(b) of the POPs Regulations provides that in exceptional cases the competent authority may allow wastes listed in Part 2 of Annex V to contain or be contaminated by a substance listed in Annex IV up to concentrations limits specified in Part 2 of Annex V.

The 2024 Regulations amend Annex V to reduce the maximum concentration limits for Pentachlorophenol, its salts, and its esters, Dicofol, Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds, Perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds.

The 2024 Regulations further amend the table at Part 2 of Annex V to include the following wasted from thermal processes: fly ash from peat and untreated wood and soil and stones (other than those containing hazardous substances).

Welsh Government Position

The Welsh Government's general principle is that whilst the law relating to devolved matters should be made and amended in Wales, in certain circumstances there are benefits in doing so collaboratively with the UK Government where there is a clear rationale for doing so.

On this occasion, it is considered appropriate for the substance of the amendments to apply to Wales as there is no policy divergence between the Welsh and UK Governments in this matter. I consider that legislating separately for Wales would be neither the most appropriate way to give effect to the necessary changes, nor a prudent use of Welsh Government resources given other important priorities.

It is anticipated that the Regulations will be laid before the UK Parliament pursuant to the affirmative procedure on 8 October 2024. It is expected that the 2024 Regulations will come into force 21 days after the day on which they are then made.

Yours sincerely,



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