

Position of the European Recycling Industries' Confederation (EuRIC) Recast of the Persistent Organic Pollutants (POPs) Regulation (EC 850/2004)

Impact on plastics recycling of setting a disproportionately low unintentional trace contaminant (UTC) threshold (10 mg/kg) for decaBDE in Annex I of the POP Regulation.

EuRIC is the umbrella organisation of the recycling industry in Europe. Through its Member Federations, EuRIC represents companies recycling end-of-life vehicles (ELVs), waste electrical and electronic equipment (WEEE), plastics, paper and glass from industrial, commercial as well as household waste streams.

EuRIC welcomes the proposal of the European Commission to recast the [Regulation EC/850/2004](#) on persistent organic pollutants (POPs), in order to update it both to institutional and substantial changes which occurred since its adoption. Consolidation of existing EU law contributes to clarity and legal certainty.

However, EuRIC would like to express its deepest concern for the proposal, in the [Draft Report](#) of Ms. Julie GIRLING – Member of the European Parliament and Rapporteur of this proposal – for the Committee on the Environment, Public Health and Food Safety (ENVI), to set a concentration level for *decaBDE equal to or below 10 mg/kg (0,001 % by weight) [i.e. 10 ppm] when it occurs in substances, mixtures, articles or as constituents of the flame-retarded parts of articles.*

For the other brominated flame retardants already listed in the POP Regulation (tetraBDE, pentaBDE, heptaBDE, octaBDE), the same limit of 10mg/kg applies, but with a derogation for “*the production, placing on the market and use of [...] articles and mixtures containing below 0.1% of [PBDE] by weight when produced partially or fully from recycled materials*”. This limit of 0.1% (1000 mg/kg, 100 times higher), technically allows to recycle plastics containing flame retardants.

In the case of the current proposal for decaBDE, the amendment (AM) 7 proposed in the draft report sets a limit of 10 mg/kg but does not include a derogation for articles or mixtures produced from recycled material. It however includes a derogation to use decaBDE, with no binding concentration limit, for manufacturers of spare parts for motor vehicles and aircrafts.

Should a concentration limit of 10 mg/kg as an unintentional trace contaminant for decaBDE become mandatory as part of the recast of the POPs regulation this would mean that:

- **Recycling plastics from WEEE or ELVs in Europe will come to an end:** producing recycled plastics containing less than 10 mg/kg of decaBDE is not technically feasible at industrial scale, even for the best performing operators with whom EuRIC is working. This would effectively halt companies which invested heavily in the development of innovative sorting and treatment processes from recycling plastics, while bringing no added benefit to the protection of human health or the environment.
- **Legacy issues will be embedded in the legislation itself:** allowing derogations for manufacturers to still use decaBDE, without setting a concentration limit and without allowing a derogation for recycling is bound to make the work of recyclers much more difficult, not to say impossible to handle by extending the period of time before this substance is completely phased out.
- **Result in major negative environmental and social impacts** since plastics waste will either have to be incinerated or landfilled, increasing the emissions of CO₂ and other emissions to air and the contamination of the soils.

On top of these negative environmental impacts, this would actually annihilate record CO₂ savings from plastics recycling as outlined by the [Plastics Strategy](#) itself according to which recycling 1 million tons of plastics equals the CO₂ savings of taking 1 million cars off the road¹.

Regarding socio-economic impacts, plastics recycling is at least 30 times more job-intensive than options lower in the waste hierarchy, namely incineration or landfill².

Setting a concentration limit of 10 mg/kg cannot be justified by any need to align the recast of the POP Regulation with the Stockholm Convention precisely because there are still ongoing discussions at the level of the Stockholm and Basel Convention on the low POP content limit value for decaBDE.

The European Commission has not included decaBDE in the Annexes of its proposal for a recast for the POP Regulation because a study to which EuRIC and 10 EU Member States have participated, and which aims at defining the position of the EU on this low POP content limit value, is still ongoing and has not delivered its final conclusions. The next Conference of Parties of the Stockholm and Basel Convention will take place in 2019 and only then the decision on the low POP content will be final.

In concrete terms, EuRIC therefore suggests to either:

- i) include decaBDE in the Annex I of the POP Regulation under the present recast, including a derogation for articles and mixtures produced partially or fully from recycled materials containing concentrations below 0.1% by weight
or
- ii) refrain from setting any concentrations limit for decaBDE and await the end of the discussions at the level of the Stockholm and Basel Conventions to align the POP Regulation via the procedures it lays down to align it to forthcoming changes.

The derogation for decaBDE in Annex I of the POP Regulation is pragmatic and environmentally sound:

- It is consistent with the existing REACH restriction³ for decaBDE adopted in 2017 which sets a limit of 1000mg/kg (0,1%) for decaBDE in articles. This existing restriction sets a concentration limit which has been deemed appropriate to protect the human health and the environment.
- This derogation is the only way to preserve the recycling of plastics from WEEE and ELVs in Europe, as no company can produce recycled plastics containing decaBDE at concentrations below 10mg/kg at industrial scale. Setting a limit of 10mg/kg for decaBDE in the Annex I of the POP Regulation without a derogation for articles produced from recycled plastics will completely undermine the objectives of the Plastics Strategy. Last but not least, such a limit cannot be reliably measured in laboratory tests, making it unenforceable in practice.

Through its Member Recycling Federations and Companies from 20 EU and EFTA countries, EuRIC represents today over:

- ✓ 5,500+ companies generating an aggregated annual turnover of about 95 billion €, including large companies and SMEs, involved in the recycling and trade of various resource streams;
- ✓ 300,000 local jobs which cannot be outsourced to third EU countries;
- ✓ Million tons of waste recycled per year (metals, paper, plastics, glass and beyond from household as well as industrial and commercial waste streams, WEEE, ELVs, etc.).

Recyclers play a key role in a circular economy. By turning wastes into resources, recycling is the link which reintroduces recycled materials into the value chains again and again.

¹ [Commission Plastics Strategy](#), figure stemming from a [study made by FEDEREC together with ADEME – the French EPA](#).

² https://www.plasticsrecyclers.eu/sites/default/files/BIO_Deloitte_PRE_Plastics%20Recycling%20Impact_Assesment_Final%20Report.pdf (page 41)

³ <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1487145528686&uri=CELEX:32017R0227>