

Changes to legislation: Regulation (EC) No 596/2009 of the European Parliament and of the Council, Division 2. is up to date with all changes known to be in force on or before 28 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

ANNEX

2. ENVIRONMENT

2.1. **Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT)⁽¹⁾**

As regards Directive 96/59/EC, the Commission should be empowered in particular to fix the reference methods of measurement to determine the PCB content of contaminated materials and the technical standards for the other methods of disposing of PCBs, and, if necessary, to determine, solely for the purpose of Article 9(1)(b) and (c), other less hazardous substitutes for PCBs. Since those measures are of general scope and are designed to amend non-essential elements of Directive 96/59/EC by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Accordingly, Directive 96/59/EC is hereby amended as follows:

1. Article 10 shall be replaced by the following:

Article 10

1 The Commission shall make available, in accordance with the regulatory procedure referred to in Article 10a(2), a list of the production names of capacitors, resistors and inductance coils containing PCBs.

2 The Commission shall:

- a fix the reference methods of measurement to determine the PCB content of contaminated materials. Measurements effected before the determination of the reference methods shall remain valid;
- b if necessary determine, solely for the purpose of Article 9(1)(b) and (c), other less hazardous substitutes for PCBs.

The Commission may fix technical standards for the other methods of disposing of PCBs referred to in the second sentence of Article 8(2).

The measures referred to in the first and second subparagraphs, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 10a(3).;

2. the following Article shall be inserted:

Article 10a

1 The Commission shall be assisted by the Committee set up by Article 18 of Directive 2006/12/EC of the European Parliament and of the Council⁽²⁾.

2 Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

3 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

2.2. **Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption⁽³⁾**

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As regards Directive 98/83/EC, the Commission should be empowered in particular to adapt Annexes II and III to scientific and technical progress and to set out certain details on monitoring in Annex II. Since those measures are of general scope and are designed to amend non-essential elements of Directive 98/83/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Accordingly, Directive 98/83/EC is hereby amended as follows:

1. Article 7(4) shall be replaced by the following:
 4. Community guidelines for the monitoring prescribed in this Article may be drawn up in accordance with the management procedure referred to in Article 12(2).;
2. Article 11(2) shall be replaced by the following:
 2. At least every five years, the Commission shall amend Annexes II and III to make the necessary adaptations to scientific and technical progress.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).;
3. Article 12(3) shall be replaced by the following:
 3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.;
4. Article 13 shall be amended as follows:
 - (a) paragraph 4 shall be replaced by the following:
 4. The formats and the minimum information for the reports provided for in paragraph 2 shall be determined having special regard to the measures referred to in Article 3(2), Article 5(2) and (3), Article 7(2), Article 8, Article 9(6) and (7) and Article 15(1), and shall if necessary be amended in accordance with the management procedure referred to in Article 12(2).;
 - (b) paragraph 6 shall be replaced by the following:
 6. Together with the first report on this Directive as mentioned in paragraph 2, Member States shall also produce a report to be forwarded to the Commission on the measures they have taken or plan to take to fulfil their obligations pursuant to Article 6(3) and Annex I, Part B, note 10. As appropriate, a proposal on the format of this report shall be submitted in accordance with the management procedure referred to in Article 12(2).;
5. Article 15(3) shall be replaced by the following:
 3. That request shall be examined in accordance with the management procedure referred to in Article 12(2).;
6. in Annex I, Part C, point 1 of note 10 shall be replaced by the following:
 1. The Commission shall adopt the measures required under Note 8 on monitoring frequencies, and Note 9 on monitoring frequencies, monitoring methods and the most relevant locations for monitoring points in Annex II.

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Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).

When elaborating those measures the Commission shall take into account, *inter alia*, the relevant provisions under existing legislation or appropriate monitoring programmes including monitoring results as derived from them.;

7. in Annex II, table A, point 2 shall be replaced by the following:

2. *Audit monitoring*

The purpose of audit monitoring is to provide the information necessary to determine whether or not all of the Directive's parametric values are being complied with. All parameters set in accordance with Article 5(2) and (3) must be subject to audit monitoring unless it can be established by the competent authorities, for a period of time to be determined by them, that a parameter is not likely to be present in a given supply in concentrations which could lead to the risk of a breach of the relevant parametric value. This point does not apply to the parameters for radioactivity, which, subject to Notes 8, 9 and 10 in Annex I, Part C, will be monitored in accordance with monitoring requirements adopted by the Commission. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).;

8. in Annex III, point 1, the first subparagraph shall be replaced by the following:

The following principles for methods of microbiological parameters are given either for reference, whenever a CEN/ISO method is given, or for guidance, pending the possible future adoption by the Commission of further CEN/ISO international methods for those parameters. Member States may use alternative methods, providing the provisions of Article 7(5) are met.

Those measures on further CEN/ISO international methods, designed to amend non-essential elements of this Directive, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 12(3)..

2.3. **Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer⁽⁴⁾**

As regards Regulation (EC) No 2037/2000, the Commission should be empowered in particular to amend Annex VI; to establish and reduce the calculated level of methyl bromide that can be placed on the market or used by importers or producers for their own account for quarantine and pre-shipment purposes; to determine a mechanism for the allocation of quotas of the calculated levels of methyl bromide to each producer and importer; to adopt, if necessary, modifications and, where appropriate, time frames for phase-out of the critical uses of halons listed in Annex VII; to take a decision on whether to adapt the end-date of prohibition of the use of hydrochlorofluorocarbons; to modify the list and dates with regard to control of the use of hydrochlorofluorocarbons; to modify the list of items related to the request for an import licence and Annex IV; to amend the list of products containing controlled substances and of Combined Nomenclature codes in Annex V; and to advance the date of export prohibition of recovered, recycled and reclaimed halon for critical uses, and to modify the reporting requirements. Since those measures are of general scope and are designed to amend non-essential elements of Regulation (EC) No 2037/2000, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

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Accordingly, Regulation (EC) No 2037/2000 is hereby amended as follows:

1. in Article 2, the 16th indent shall be replaced by the following:
 - “processing agent” means controlled substances used as chemical processing agents in those applications listed in Annex VI, in installations existing on 1 September 1997, and where emissions are insignificant. The Commission shall, in the light of those criteria, and in accordance with the management procedure referred to in Article 18(2), establish a list of undertakings in which the use of controlled substances as processing agents shall be permitted, laying down maximum emission levels for each of the undertakings concerned.

In the light of new information or technical developments, including the review provided for in Decision X/14 of the Meeting of the Parties to the Protocol, the Commission may:

 - (a) amend the list of undertakings referred to above in accordance with the management procedure referred to in Article 18(2);
 - (b) amend Annex VI. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).;
2. Article 4 shall be amended as follows:
 - (a) the third subparagraph of point (iii) of paragraph 2 shall be replaced by the following:

The Commission shall take measures to reduce the calculated level of methyl bromide which producers and importers may place on the market or use for their own account for quarantine and preshipment in the light of technical and economic availability of alternative substances or technologies, and of the relevant international developments under the Protocol. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).;
 - (b) paragraph 3(ii) shall be replaced by the following:
 - (ii) The Commission may amend the mechanism for the allocation of quotas to each producer and importer of the calculated levels set out in points (d) to (f), applicable for the period 1 January 2003 to 31 December 2003 and for each 12-month period thereafter.

Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).;
 - (c) paragraph 4(iv) shall be replaced by the following:
 - (iv) Paragraph 1(c) shall not apply to the placing on the market and use of halons that have been recovered, recycled or reclaimed in existing fire protection systems until 31 December 2002 or to the placing on the market and use of halons for critical uses as set out in Annex VII. Each year the competent authorities of the Member

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States shall notify to the Commission the quantities of halons used for critical uses, the measures taken to reduce their emissions and an estimate of such emissions, and the current activities to identify and use adequate alternatives.

Each year the Commission shall review the critical uses listed in Annex VII and, if necessary, adopt modifications and, where appropriate, time frames for phase-out, taking into account the availability of both technically and economically feasible alternatives or technologies that are acceptable from the standpoint of the environment and health.

Those measures, designed to amend non-essential elements of this Regulation, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).;

3. Article 5 shall be amended as follows:

(a) the fifth subparagraph of point (c)(v) of paragraph 1 shall be replaced by the following:

The Commission shall submit the result of the review to the European Parliament and to the Council. It shall, as appropriate, take a decision on whether to adapt the date of 1 January 2015. That measure, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).;

(b) paragraph 6 shall be replaced by the following:

6. The Commission may, in the light of experience with the operation of this Regulation or to reflect technical progress, amend the list and the dates set out in paragraph 1 but may in no case extend the periods set out therein, without prejudice to the exemptions provided for in paragraph 7.

Those measures, designed to amend non-essential elements of this Regulation, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).;

4. Article 6(5) shall be replaced by the following:

5. The Commission may amend the list of items mentioned in paragraph 3 and Annex IV.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).;

5. Article 9(2) shall be replaced by the following:

2. A list of products containing controlled substances and of Combined Nomenclature codes is given in Annex V for guidance of the Member States' customs authorities. The Commission may add to, delete items from or amend that list in the light of the lists established by the Parties.

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Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).;

6. Article 11(1)(d) shall be replaced by the following:
 - (d) recovered, recycled and reclaimed halon stored for critical uses in facilities authorised or operated by the competent authority to satisfy critical uses listed in Annex VII until 31 December 2009, and products and equipment containing halon to satisfy critical uses listed in Annex VII. Following a review undertaken by 1 January 2005 by the Commission of exports of such recovered, recycled and reclaimed halon for critical uses the Commission may prohibit such exports earlier than 31 December 2009. That measure, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).;
7. Article 18(3) shall be replaced by the following:
 3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.;
8. Article 19(6) shall be replaced by the following:
 6. The Commission may amend the reporting requirements laid down in paragraphs 1 to 4 to meet commitments under the Protocol or to improve the practical application of those reporting requirements.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3)..

2.4. **Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register⁽⁵⁾**

As regards Regulation (EC) No 166/2006, the Commission should be empowered in particular to adopt measures referred to in Article 8(3); to adapt Annexes II or III to scientific or technical progress; and to adapt Annexes II and III as a result of the adoption by the Meeting of the Parties to the UNECE Protocol on Pollutant Release and Transfer Registers of any amendment to the Annexes to that Protocol. Since those measures are of general scope and are designed to amend non-essential elements of Regulation (EC) No 166/2006, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Accordingly, Regulation (EC) No 166/2006 is hereby amended as follows:

1. Article 8(3) shall be replaced by the following:
 3. Where the Commission determines that no data on the releases from diffuse sources exist, measures to initiate reporting on releases of relevant pollutants from one or more diffuse sources shall be taken using, where appropriate, internationally approved methodologies.

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Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3).;

2. Article 18 shall be replaced by the following:

Article 18

Amendments to the Annexes

The Commission shall make any necessary amendments to the annexes for the following purposes:

- (a) the adaptation of Annexes II or III to scientific or technical progress;
- (b) the adaptation of Annexes II and III as a result of the adoption by the Meeting of the Parties to the Protocol of any amendment to the Annexes to the Protocol.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3).;

3. the following paragraph shall be added to Article 19:
3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof..
- 2.5. **Directive 2006/7/EC of the European Parliament and of the Council of 15 February 2006 concerning the management of bathing water quality⁽⁶⁾**

As regards Directive 2006/7/EC, the Commission should be empowered in particular to adapt, in the light of scientific and technical progress, the methods of analysis for the parameters and sampling rules set out in Annex I and Annex V respectively, and to specify the EN/ISO standard on the equivalence of microbiological methods. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2006/7/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Accordingly, Directive 2006/7/EC is hereby amended as follows:

1. Article 15 shall be replaced by the following:

Article 15

Technical adaptations and implementing measures

- 1 The Commission shall, in accordance with the regulatory procedure referred to in Article 16(2), lay down the following:
 - a detailed rules for the implementation of Article 8(1), Article 12(1)(a) and Article 12(4);
 - b guidelines for a common method for the assessment of single samples.

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- 2 The Commission shall adopt the following measures:
- a the specification of EN/ISO standard on the equivalence of microbiological methods for the purposes of Article 3(9);
 - b any amendments necessary in order to adapt the methods of analysis for the parameters set out in Annex I in the light of scientific and technical progress;
 - c any amendments necessary in order to adapt Annex V in the light of scientific and technical progress.

Those measures, designed to amend non-essential elements of this Directive, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 16(3).

- 3 The Commission shall present a draft of the measures to be taken in accordance with paragraph 1(a) with respect to Article 12(1)(a) by 24 March 2010. Before doing so, it shall consult representatives of Member States, regional and local authorities, relevant tourist and consumer organisations and other interested parties. After the adoption of relevant rules, it shall publicise them via the Internet.;

2. Article 16(3) shall be replaced by the following:

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof..

2.6. **Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries⁽⁷⁾**

As regards Directive 2006/21/EC, the Commission should be empowered in particular to adopt provisions necessary for the implementation of Article 13(6); to complete the technical requirements for waste characterisation contained in Annex II; to interpret the definition in point 3 of Article 3; to define the criteria for the classification of waste facilities in accordance with Annex III; to determine harmonised standards for sampling and analysis methods; and to adapt the Annexes to scientific and technical progress. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2006/21/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Accordingly, Directive 2006/21/EC is hereby amended as follows:

1. Article 22 shall be replaced by the following:

Article 22

- 1 The Commission shall, in accordance with the regulatory procedure referred to in Article 23(2), adopt the following:
- a provisions necessary for the harmonisation and regular transmission of the information referred to in Article 7(5) and Article 12(6);
 - b technical guidelines for the establishment of the financial guarantee in accordance with the requirements of Article 14(2);
 - c technical guidelines for inspections in accordance with Article 17.
- 2 The Commission shall lay down provisions necessary for the following, prioritising points (b), (c) and (d):

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- a the implementation of Article 13(6), including technical requirements relating to the definition of weak acid dissociable cyanide and its measurement method;
- b the completion of the technical requirements for waste characterisation contained in Annex II;
- c the interpretation of the definition contained in point 3 of Article 3;
- d the definition of the criteria for the classification of waste facilities in accordance with Annex III;
- e the determination of any harmonised standards for sampling and analysis methods needed for the technical implementation of this Directive.

Those measures, designed to amend non-essential elements of this Directive, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).

- 3 The Commission shall make the necessary amendments to the Annexes for the purpose of adapting them to scientific and technical progress. Those amendments shall be made with a view to achieving a high level of environmental protection.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).;

2. Article 23(3) shall be replaced by the following:

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof..

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- (1) OJ L 243, 24.9.1996, p. 31.
- (2) OJ L 114, 27.4.2006, p. 9.
- (3) OJ L 330, 5.12.1998, p. 32.
- (4) OJ L 244, 29.9.2000, p. 1.
- (5) OJ L 33, 4.2.2006, p. 1.
- (6) OJ L 64, 4.3.2006, p. 37.
- (7) OJ L 102, 11.4.2006, p. 15.

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