

DIRECTIVES

COMMISSION DELEGATED DIRECTIVE (EU) 2021/647

of 15 January 2021

amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for the use of certain lead and hexavalent chromium compounds in electric and electronic initiators of explosives for civil (professional) use

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment ⁽¹⁾, and in particular Article 5(1)(a) thereof,

Whereas:

- (1) Directive 2011/65/EU requires Member States to ensure that electrical and electronic equipment placed on the market does not contain the hazardous substances listed in Annex II to that Directive. That restriction does not apply to certain exempted applications listed in Annex III to that Directive.
- (2) The categories of electrical and electronic equipment to which Directive 2011/65/EU applies are listed in Annex I to that Directive.
- (3) Lead and hexavalent chromium are restricted substances listed in Annex II to Directive 2011/65/EU.
- (4) On 19 January 2018, the Commission received an application made in accordance with Article 5(3) of Directive 2011/65/EU for an exemption to be listed in Annex III to that Directive, for the use of lead and hexavalent chromium compounds in electric and electronic initiators of explosives for civil (professional) use ('the requested exemption').
- (5) The evaluation of the request included stakeholder consultations in accordance with Article 5(7) of Directive 2011/65/EU. The comments received during these consultations were made publicly available on a dedicated website.
- (6) Certain lead and hexavalent chromium compounds are used in essential parts of electric and electronic initiators (EEI), such as electric fuseheads, primary explosive charges and pyrotechnic delay charges. EEI are a part of electric and electronic detonators that are primarily used for mining of minerals, construction and demolition activities, as well as in components of integrated rescue systems.
- (7) Currently, there are no alternatives for lead diazide, lead styphnate, lead dipicramate, orange lead (lead tetroxide), lead dioxide in EEI and for barium chromate in long time pyrotechnic delay charges of EEI available on the market which would meet all essential requirements in order to ensure safe operation of EEI.

⁽¹⁾ OJ L 174, 1.7.2011, p. 88.

- (8) Due to the lack of alternatives, a substitution or elimination of lead diazide, lead styphnate, lead dipicramate, orange lead (lead tetroxide), lead dioxide and barium chromate is scientifically and technically impracticable in certain EEI components. The exemption is consistent with Regulation (EC) No 1907/2006 of the European Parliament and of the Council ⁽²⁾ and thus does not weaken the environmental and health protection afforded by it.
- (9) It is, therefore, appropriate to grant the requested exemption by including the applications covered by it in Annex III to Directive 2011/65/EU with respect to electrical and electronic equipment of category 11.
- (10) The requested exemption should be granted for a duration of 5 years starting from 20 April 2021, in accordance with the first subparagraph of Article 5(2) of Directive 2011/65/EU. In view of the results of the ongoing efforts to find a reliable substitution, the duration of the exemption is unlikely to have adverse impacts on innovation.
- (11) Directive 2011/65/EU should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex III to Directive 2011/65/EU is amended as set out in the Annex to this Directive.

Article 2

1. Member States shall adopt and publish, by 31 October 2021 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 November 2021.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 15 January 2021.

For the Commission
The President
Ursula VON DER LEYEN

⁽²⁾ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

ANNEX

In Annex III to Directive 2011/65/EU, the following entry 45 is added:

'45	Lead diazide, lead styphnate, lead dipicramate, orange lead (lead tetroxide), lead dioxide in electric and electronic initiators of explosives for civil (professional) use and barium chromate in long time pyrotechnic delay charges of electric initiators of explosives for civil (professional) use	Applies to category 11 and expires on 20 April 2026'
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