

COMMISSION DELEGATED DIRECTIVE (EU) 2022/282**of 13 December 2021****amending, for the purpose of adapting to technical and scientific progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for the use of mercury in non-linear tri-band phosphor lamps****(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), point (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) Mercury is a restricted substance listed in Annex II to Directive 2011/65/EU.
- (4) By Decision 2010/571/EU ⁽²⁾, the Commission granted, among other things, an exemption for the use of mercury in non-linear tri-band phosphor lamps with tube diameter > 17 mm (e.g. T9) ('the exemption'), which is now listed as exemption 2(b)(3) in Annex III to Directive 2011/65/EU. The exemption was to expire on 21 July 2016, in accordance with Article 5(2), second subparagraph, point (a), of that Directive.
- (5) Mercury is used in non-linear tri-band phosphor lamps to produce ultraviolet light, which is then converted into visible light by the fluorescent coating on the lamp. The composition of the coating, which contains the mercury, determines light colour and colour rendering.
- (6) On 19 December 2014 and 15 January 2015, the Commission received two applications for renewal of the exemption ('the renewal application'), that is within the time limit laid down in Article 5(5) of Directive 2011/65/EU, one of which was updated with additional information in January 2020. In accordance with Article 5(5) of Directive 2011/65/EU, an exemption remains valid until a decision on the renewal request has been taken.
- (7) The evaluation of the renewal application, which took into account the availability of substitutes and the socioeconomic impact of substitution, concluded that the substitution or elimination of mercury in the applications concerned is currently technically impracticable. That evaluation further concluded that the mercury concentration limit in the lamp categories covered by that exemption can be lowered from 15 mg to 10 mg per lamp. The evaluation included stakeholder consultations in accordance with Article 5(7) of Directive 2011/65/EU. The comments received during those consultations were made publicly available on a dedicated website.

⁽¹⁾ OJ L 174, 1.7.2011, p. 88.

⁽²⁾ Commission Decision 2010/571/EU of 24 September 2010 amending, for the purposes of adapting to scientific and technical progress, the Annex to Directive 2002/95/EC of the European Parliament and of the Council as regards exemptions for applications containing lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls or polybrominated diphenyl ethers (OJ L 251, 25.9.2010, p. 28).

- (8) The exemption is consistent with Regulation (EC) No 1907/2006 of the European Parliament and of the Council ⁽³⁾ and thus does not weaken the environmental and health protection afforded by it.
- (9) It is therefore appropriate to grant the renewal of the exemption, with a revised wording, setting out the limited scope of the exemption, for a period of 3 years, in accordance with Article 5(2), first subparagraph, of Directive 2011/65/EU, to collect further data related to the availability of substitutes for the specific lamp types covered by that exemption. In accordance with Article 5(6) of Directive 2011/65/EU, an expiry date of 12 months should be set for the current exemption 2(b)(3). 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.
- (10) 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 30 September 2022 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 October 2022.

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, 13 December 2021.

For the Commission
The President
Ursula VON DER LEYEN

⁽³⁾ 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) 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, entry 2(b)(3) is replaced by the following:

	Exemption	Scope and dates of applicability
'2(b)(3)	Non-linear tri-band phosphor lamps with tube diameter > 17 mm (e.g. T9): 15 mg	Expires on 24 February 2023; 10 mg may be used per lamp from 25 February 2023 until 24 February 2025'