

COMMISSION DELEGATED DIRECTIVE (EU) 2022/283**of 13 December 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 mercury in High Pressure Sodium (vapour) lamps with improved colour rendering index for general lighting purposes****(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), points (a) and (b) 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 High Pressure Sodium (vapour) lamps for general lighting purposes not exceeding (per burner) in lamps with improved colour rendering index $R_a > 60$ ('the exemption'), which is now listed as exemption 4(b)-I, 4(b)-II and 4(b)-III 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 High Pressure Sodium (vapour) lamps for light colour and colour rendering properties.
- (6) In January 2015, the Commission received an application for renewal of the exemption for applications in entries 4(b)-I, 4(b)-II and 4(b)-III ('the renewal application'), that is within the time limit laid down in Article 5(5) of Directive 2011/65/EU. In January 2020, the same applicant submitted an updated renewal application concerning entry 4(b)-I only. In accordance with Article 5(5) of Directive 2011/65/EU, the exemption remains valid until a decision on the renewal application 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 was scientifically and technically practicable as concerns a part of entry 4(b)-I, as well as entries 4(b)-II and 4(b)-III of Annex III to Directive 2011/65/EU. The evaluation concluded nevertheless that the exemption should be renewed for the part of entry 4(b)-I which concerns lamps with a high colour rendering higher than 80, equal to or lower than 105W and that, whilst the use of mercury is still necessary, that can be further lowered. 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) It is therefore appropriate to renew part of exemption 4(b)-I, and renumber it as exemption entry 4(b), for a maximum period of 5 years in accordance with Article 5(2), first subparagraph, of Directive 2011/65/EU. This renewed exemption shall have a revised wording setting out the further limited scope of the exemption. 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.
- (9) The renewed exemption is consistent with Regulation (EC) No 1907/2006 of the European Parliament and of the Council ⁽⁷⁾ and thus does not weaken the environmental and health protection afforded by it.
- (10) As the conditions for the renewal of the exemption, set out in Article 5(1), point (a), of Directive 2011/65/EU, are no longer fulfilled for the applications listed in the remainder of entry 4(b)-I as well as in entries 4(b)-II and 4(b)-III of Annex III to that Directive, the exemption for those applications should be revoked. Expiry dates for those exemptions should be set in accordance with Article 5(6) of Directive 2011/65/EU.
- (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 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

⁽⁷⁾ 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, entries 4(b), 4(b)-I, 4 (b)-II and 4(b)-III are replaced by the following:

	Exemption	Scope and dates of applicability
‘ 4(b)	Mercury in High Pressure Sodium (vapour) lamps for general lighting purposes not exceeding (per burner) in lamps with improved colour rendering index $R_a > 80$: $P \leq 105$ W: 16 mg may be used per burner	Expires on 24 February 2027
4(b)-I	Mercury in High Pressure Sodium (vapour) lamps for general lighting purposes not exceeding (per burner) in lamps with improved colour rendering index $R_a > 60$: $P \leq 155$ W: 30 mg may be used per burner	Expires on 24 February 2023
4(b)-II	Mercury in High Pressure Sodium (vapour) lamps for general lighting purposes not exceeding (per burner) in lamps with improved colour rendering index $R_a > 60$: 155 W < $P \leq 405$ W: 40 mg may be used per burner	Expires on 24 February 2023
4(b)-III	Mercury in High Pressure Sodium (vapour) lamps for general lighting purposes not exceeding (per burner) in lamps with improved colour rendering index $R_a > 60$: $P > 405$ W: 40 mg may be used per burner	Expires on 24 February 2023’