



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.9.2004
COM(2004) 606 final

Proposal for a

COUNCIL DECISION

amending Directive 2002/95/EC of the European Parliament and of the Council for the purposes of establishing the maximum concentration values for certain hazardous substances in electrical and electronic equipment

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. Article 4(1) of Directive 2002/95/EC on the restriction of the use of certain hazardous substances in electrical and electronic equipment provides that as from 1 July 2006, new electrical and electronic equipment put on the market does not contain lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB) or polybrominated diphenyl ethers (PBDE).
2. Article 5(1)(a) provides for the establishment of maximum concentration values up to which the presence of the substances referred to in Article 4(1) in specific materials and components of electrical and electronic equipment shall be tolerated. The Commission is assisted in this work by the Committee established by Article 18 of Directive 75/442/EEC¹ on waste. The procedure is set out in Article 7 of Directive 2002/95/EC.

Accordingly, the Commission submitted a draft decision for vote in the Committee established under Article 18 of Directive 75/442/EEC on waste on 10 June 2004. There was no qualified majority in favour of the draft decision.

Thus, in accordance with the procedure set out in Article 18 of Directive 75/442/EEC a Proposal for a Council Decision is submitted to Council. If Council has not acted within three months from the date of referral of the proposal, the proposed measures shall be adopted by the Commission.

¹ As last amended by Council Decision 1999/468/EC (OJ L 184, 17.7.1999, p. 23).

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amending Directive 2002/95/EC of the European Parliament and of the Council for the purposes of establishing the maximum concentration values for certain hazardous substances in electrical and electronic equipment

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment², and in particular Article 5(1)(a) thereof,

Whereas:

- (1) Since it is evident that a total avoidance of heavy metals and brominated flame retardants is in some instances impossible to achieve, certain concentration values for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB) or polybrominated diphenyl ethers (PBDE) in materials should be tolerated.
- (2) The proposed maximum concentration values are based on existing Community Chemicals legislation and are considered the most appropriate to ensure a high level of protection.
- (3) Pursuant to Article 5(2) the Commission has consulted producers of electric and electronic equipment, recyclers, treatment operators, environmental organisations and employee and consumers associations and forwarded the comments to the Committee established by Article 18 of Council Directive 75/442/EEC of 15 July 1975 on waste³.

HAS ADOPTED THIS DECISION:

Article 1

In the Annex to Directive 2002/95/EC the following note is added:

“For the purposes of Article 5(1)(a), a maximum concentration value of 0.1% by weight in homogeneous materials for lead, mercury, hexavalent chromium, polybrominated biphenyls (PBB) and polybrominated diphenyl ethers (PBDE) and of 0.01% by weight in homogeneous materials for cadmium shall be tolerated.”

² OJ L 37, 13.2.2003, p. 19

³ OJ L 194, 25.7.1975, p.39, Directive as last amended by Commission Decision 96/350/EC (OJ L 135, 6.6.1996, p.32).

Article 2

This Decision shall apply from 1 July 2006.

Article 3

This Decision is addressed to the Member States.

Done at Brussels,

For the Council

The President