



2024/232

10.1.2024

COMMISSION DELEGATED DIRECTIVE (EU) 2024/232

of 25 October 2023

amending Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for cadmium and lead in plastic profiles in electrical and electronic windows and doors containing recovered rigid polyvinyl chloride

(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) Article 4(1) of 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 applications listed in Annexes III and IV 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) Cadmium and lead are restricted substances listed in Annex II to Directive 2011/65/EU. Lead is restricted with a maximum concentration value of 0,1 % and cadmium with a maximum concentration value of 0,01 % by weight in homogenous materials.
- (4) On 14 December 2015, the Commission received an application made in accordance with Article 5(3) of Directive 2011/65/EU for granting an exemption for cadmium and lead in electrical and electronic windows and doors containing recovered polyvinyl chloride (PVC) ('the requested exemption').
- (5) A technical and scientific assessment study ⁽²⁾ was carried out to evaluate the requested exemption. The evaluation included stakeholder consultations as required by Article 5(7) of Directive 2011/65/EU.
- (6) Cadmium and lead are used in recovered PVC frame material for window and door sets for the purpose of polymer stabilisation of the PVC profiles.
- (7) The electrical and electronic equipment described in the requested exemption falls under category 11 of Annex I to Directive 2011/65/EU.
- (8) While lead- and cadmium-free virgin PVC is available on the market, the use of recovered PVC requires lower amounts of energy and natural resources (such as water, petroleum and natural salt) than the amounts that would be otherwise needed for the use of virgin PVC. Therefore, the total negative environmental, health and consumer safety impacts caused by substitution would likely outweigh the total environmental, health and consumer safety benefits thereof. Thus, the requested exemption meets at least one of the relevant conditions specified in Article 5(1), point (a), of Directive 2011/65/EU.

⁽¹⁾ OJ L 174, 1.7.2011, p. 88.

⁽²⁾ Study to assess 2 RoHS new exemption requests - #1 for cadmium in video cameras designed for use in environments exposed to ionising radiation, #2 for lead and cadmium in PVC profiles of electric windows and doors : final report

- (9) The exemption does not weaken the environmental and health protection afforded by Regulation (EC) No 1907/2006 of the European Parliament and of the Council ⁽³⁾. The scope of the exemption is limited to the current cadmium and lead restriction entries under that Regulation. In particular, the scope of the exemption has been aligned with the derogation for lead in recovered PVC set out in Commission Regulation (EU) 2023/923 ⁽⁴⁾.
- (10) It is, therefore, appropriate to grant the exemption by including the applications covered by that exemption in Annex III to Directive 2011/65/EU with respect to electrical and electronic equipment of category 11 of Annex I to Directive 2011/65/EU.
- (11) The expiry date of the exemption should be limited to 28 May 2028, by which time the restriction entry 63, points 18, of Annex XVII to Regulation (EC) No 1907/2006 shall be reviewed. The expiry date is in accordance with the first subparagraph of Article 5(2) of Directive 2011/65/EU.
- (12) 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 July 2024 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 August 2024.

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.

⁽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) 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).

⁽⁴⁾ Commission Regulation (EU) 2023/923 of 3 May 2023 amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council as regards lead and its compounds in PVC (OJ L 123, 8.5.2023, p. 1).

Done at Brussels, 25 October 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

In Annex III to Directive 2011/65/EU, the following entry 46 is added:

'46	<p>Cadmium and lead in plastic profiles containing mixtures produced from polyvinyl chloride waste (hereinafter referred to as “recovered rigid PVC”), used for electrical and electronic windows and doors, where the concentration in the recovered rigid PVC material does not exceed 0,1 % cadmium by weight and 1,5 % lead by weight.</p> <p>From 28 May 2026, rigid PVC recovered from electrical and electronic windows and doors shall only be used for the production of new articles under the categories specified in entry 63, points 18(a) to (d) of Annex XVII to Regulation (EC) No 1907/2006.</p> <p>Suppliers of PVC articles containing recovered rigid PVC with a concentration of lead equal to or greater than 0,1 % by weight of the PVC material shall ensure, before placing those articles on the market, that they are visibly, legibly and indelibly marked with the statement: “Contains ≥ 0,1 % lead”. Where the marking cannot be provided on the article due to the nature of the article, it shall be on the packaging of the article.</p> <p>Suppliers of PVC articles containing recovered rigid PVC shall submit to national enforcement authorities upon request documentary evidence to substantiate the claims on the recovered origin of the PVC in those articles. Certificates issued by schemes to provide proof of traceability and recycled content, such as those developed according to EN 15343:2007 or equivalent recognised standards, may be used to substantiate such claims for PVC articles produced in the Union. Claims made on the recovered origin of the PVC in imported articles shall be accompanied by a certificate that provides equivalent proof of traceability and recycled content, issued by an independent third party.</p>	Applies to category 11 and expires on 28 May 2028.'
-----	--	---