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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 17 December 2019

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: COMMISSION DELEGATED DIRECTIVE (EU) .../... of 17.12.2019
amending Annex II to Directive 2000/53/EC of the European Parliament
and of the Council on end-of-life vehicles as regards the exemption for
hexavalent chromium as anti-corrosion agent of the carbon steel cooling
system in absorption refrigerators in motor caravans

Delegations will find attached document C(2019) 8996 final.

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COMMISSION DELEGATED DIRECTIVE (EU) .../...

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amending Annex II to Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles as regards the exemption for hexavalent chromium as anti-corrosion agent of the carbon steel cooling system in absorption refrigerators in motor caravans

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

This Commission Delegated Directive amends, for the purpose of adapting to technical progress, Annex II of Directive 2000/53/EC of the European Parliament and of the Council on the end-of-life vehicles¹ (ELV) as regards an exemption for specific applications containing hexavalent chromium. The draft delegated act is the result of the process under ELV Directive to amend Annex II according to technical and scientific progress, in accordance with the procedure established in the Article 4(2), point (b) of the ELV Directive.

The ELV Directive restricts the use of certain hazardous substances in materials and components of vehicles put on the market after 1 July 2003, as provided for in its Article 4(2)(a). Currently, vehicles and parts for vehicles placed on the Union market shall not contain lead, mercury, cadmium and hexavalent chromium².

Annex II to the ELV Directive lists the materials and components of vehicles for specific applications that are exempted from the substance restriction of ELV Article 4(2).

Article 4(2)(b) provides that Annex II shall be amended on a regular basis, according to technical and scientific progress. Furthermore, Article 1 of Directive 2018/849/EU³ amending Article 4(2), point (b) of the ELV Directive provides that such amendment of Annex II shall be done by means of delegated acts.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The current exemptions 14 permits the use of hexavalent chromium as an anti-corrosion agent of the carbon steel cooling system in absorption refrigerators in motor caravans up to 0,75 weight -% in the cooling solution except where the use of other cooling technologies is practicable (i.e. available on the market for the application in motor caravans) and does not lead to negative environmental, health and/or consumer safety impacts.

Exemption (14) regarding the use of hexavalent chromium needs to be reviewed to align the wording with similar applications in the Directive 2011/65/EU of the European Parliament and of the Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment⁴ (RoHS) as well as the Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH).

With a view to evaluating this exemption, the Commission launched a study to carry out the required technical and scientific assessment, including an eight-week online open-ended stakeholder consultation. The consultants' final report⁵ concluded that the exemption should be extended with a revised wording until the end of 2025. An alternative corrosion inhibitor has been identified but it is not yet available in products installed in motor caravans placed on

¹ OJ L 269, 21.10.2000, p.34.

² See Article 4(2)(a) of the ELV Directive.

³ Directive (EU) 2018/849 amending Directives 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators and 2012/19/EU on waste electric and electronic equipment, OJ L 150, 14.6.2018, p. 93

⁴ OJ L 174, 1.7.2011, p. 88

⁵ http://ec.europa.eu/environment/waste/elv/events_en.htm.

the EU market; its application in absorption refrigerators installed in motor caravans still requires technical adaptations and field tests in order to reliably ensure corrosion inhibition over the long product life time and under harsh and varying conditions, thus justifying the renewal of the exemption until this can be accomplished.

Subsequently, the Commission consulted the Member States expert group for delegated acts under ELV during an expert meeting on 8 March 2019. The Commission consulted the Member States expert group for delegated acts under ELV again on 3 September 2019.

The Council and the European Parliament were notified of all activities.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The Delegated Directive grants an exemption from the restrictions in Article 4(1), to be listed in Annex II of Directive 2000/53/EC, for the use of hexavalent chromium in specific applications.

The instrument is a Delegated Directive, as provided for by Directive (EU) 2018/849, and in particular meeting the relevant requirements of Article 1(1)(b) thereof.

In accordance with the principle of proportionality, the measure does not go beyond what is necessary to achieve its objective.

The proposal has no implications for the EU budget.

Commission Delegated Directive (EU) .../... of 17.12.2019 amending Annex II to Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles as regards the exemption for hexavalent chromium as anti-corrosion agent of the carbon steel cooling system in absorption refrigerators in motor caravans

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles⁶, and in particular Article 4(2)(b) thereof,

Whereas:

- (1) Pursuant to Article 4(2)(a) of Directive 2000/53/EC, Member States are to prohibit the use of lead, mercury, cadmium and hexavalent chromium in materials and components of vehicles put on the market after 1 July 2003.
- (2) Annex II to Directive 2000/53/EC lists vehicle materials and components exempt from the prohibition pursuant to Article 4(2)(a) thereof. Exemption 14 regarding the use of hexavalent chromium needs to be amended to align for coherence the wording of that exemption with similar exemptions for the use of hexavalent chromium provided for in Directive 2011/65/EU of the European Parliament and of the Council⁷ and Regulation (EC) No 1907/2006 of the European Parliament and of the Council⁸.
- (3) The assessment of exemption 14 in view of technical and scientific progress led to the conclusion that although suitable alternative substances to hexavalent chromium have become available, they cannot yet be used in products. It is expected that suitable alternatives to the use of hexavalent chromium may become available in the future. It is hence appropriate to split the current exemption in three sub-entries and set an expiry date for two of the sub-entries to the exemption.
- (4) Directive 2000/53/EC should therefore be amended accordingly.

⁶ OJ L 269, 21.10.2000, p. 34.

⁷ 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 (OJ L 174, 1.7.2011, p. 88).

⁸ 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).

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex II to Directive 2000/53/EC is amended as set out in the Annex to this Directive.

Article 2

1. Member States shall adopt and publish by (xxx one month after publication) 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.

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 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, 17.12.2019

For the Commission
The President
Ursula VON DER LEYEN