

COMMISSION DELEGATED DIRECTIVE (EU) 2022/284**of 16 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 double-capped linear fluorescent lamps 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), point (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, which are listed in Annex III to the 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 double-capped linear fluorescent lamps for general lighting purposes ('the exemption'), which is now listed as exemption 2(a)(1), 2(a)(2), 2(a)(3), 2(a)(4) and 2(a)(5) 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 double-capped linear fluorescent lamps for general lighting purposes to produce ultraviolet light, which is then converted into visible light by the fluorescent coating on the lamp.
- (6) On 19 December 2014 and 15 January 2015, the Commission received two applications for renewal of the exemption ('the renewal applications'), that is within the time limit laid down in Article 5(5) of Directive 2011/65/EU, of which one was updated with a renewed application on 20 January 2020. In accordance with Article 5(5), second subparagraph, 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 applications, which took into account the availability of substitutes and the socioeconomic impact of substitution, concluded that sufficiently reliable mercury-free substitutes for the lamp types covered by the exemption have become available and that the substitution of mercury in these lamps is scientifically and technically practicable. Furthermore, that evaluation concluded that the benefits of substitution would clearly outweigh any negative impact.
- (8) The evaluation of the renewal applications 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).

- (9) As the conditions set out in Article 5(1), point (a), of Directive 2011/65/EU are no longer fulfilled, the renewal application should be rejected. Expiry dates for the exemption should be set in accordance with Article 5(6) of that Directive.
- (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, 16 December 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

In Annex III to Directive 2011/65/EU, entries 2(a), 2(a)(1), 2(a)(2), 2(a)(3), 2(a)(4) and 2(a)(5) are replaced by the following:

	Exemption	Scope and dates of applicability
‘2(a)	Mercury in double-capped linear fluorescent lamps for general lighting purposes not exceeding (per lamp):	
2(a)(1)	Tri-band phosphor with normal lifetime and a tube diameter < 9 mm (e.g. T2): 4 mg	Expires on 24 February 2023
2(a)(2)	Tri-band phosphor with normal lifetime and a tube diameter ≥ 9 mm and ≤ 17 mm (e.g. T5): 3 mg	Expires on 24 August 2023
2(a)(3)	Tri-band phosphor with normal lifetime and a tube diameter > 17 mm and ≤ 28 mm (e.g. T8): 3,5 mg	Expires on 24 August 2023
2(a)(4)	Tri-band phosphor with normal lifetime and a tube diameter > 28 mm (e.g. T12): 3,5 mg	Expires on 24 February 2023
2(a)(5)	Tri-band phosphor with long lifetime (≥ 25 000 h): 5 mg.	Expires on 24 February 2023’