



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 8 May 2012

9634/12

**COMPET 247
ENV 337
CHIMIE 43
MI 303
ENT 120**

COVER NOTE

from: European Commission

date of receipt: 3 May 2012

to: Secretariat General of the Council

No Cion doc.: D019485/03

Subject: **COMMISSION REGULATION (EU) No .../.. of XXX amending Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the registration, evaluation, authorisation and restriction of chemicals (REACH) as regards Annex XVII (Cadmium)**

Delegations will find attached Commission document D019485/03.

Encl.: D019485/03



EUROPEAN COMMISSION

Brussels, **XXX**
D019485/03
[...] (2012) **XXX** draft

COMMISSION REGULATION (EU) No .../..

of **XXX**

**amending Regulation (EC) No 1907/2006 of the European Parliament and of the Council
on the registration, evaluation, authorisation and restriction of chemicals (REACH) as
regards Annex XVII (Cadmium)**

(Text with EEA relevance)

COMMISSION REGULATION (EU) No .../..

of **XXX**

amending Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the registration, evaluation, authorisation and restriction of chemicals (REACH) as regards Annex XVII (Cadmium)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to 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/EC¹, and in particular Article 131 thereof,

Whereas:

- (1) Commission Regulation (EU) No 494/2011 of 20 May 2011 amending Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards Annex XVII (Cadmium)² modified the scope of the restriction on cadmium and cadmium compounds, introducing provisions applicable to brazing sticks and jewellery in accordance with the risk evaluation and the risk reduction strategies for cadmium and cadmium oxide³.
- (2) Regulation (EU) No 494/2011 furthermore extended the existing restriction on the use of cadmium and cadmium compounds in synthetic organic polymers (plastic material) to all plastic materials, while providing an exception for the use of recovered PVC containing cadmium in the manufacture of certain construction products. This derogation was granted taking into account the discussions in an *ad hoc* expert meeting on risk management activities under Regulation (EC) No 1907/2006 and the results of the study on Socio-Economic Impact of a Potential Update of the Restrictions on the Marketing and Use of Cadmium in jewellery, brazing alloys and PVC, published in January 2010⁴. All elements of the restriction were also subject to

¹ OJ L 396, 30.12.2006, p. 1.

² OJ L 134, 21.5.2011, p. 2.

³ OJ C 149, 14.6.2008, p. 6.

⁴ http://ec.europa.eu/enterprise/sectors/chemicals/files/markrestr/study-cadmium_en.pdf

consultation with the Member States' competent authorities responsible for the implementation of Regulation (EC) No 1907/2006 and with stakeholders.

- (3) Following the adoption of Regulation (EU) No 494/2011, the Commission was informed of uses of cadmium pigments in certain types of plastics materials, restricted for the first time by Regulation (EU) No 494/2011, where suitable alternatives to the use of cadmium compounds appear not to be available and for which, due to the exceptional circumstances of a limited consultation, further assessment is now appropriate.
- (4) The Council Resolution of 25 January 1988 calls for an overall strategy to combat environmental pollution by cadmium, including specific measures to restrict the use of cadmium and stimulate the development of further alternatives to the use of cadmium in pigments, stabilizers and plating, asking for limitation of the uses of cadmium to cases where suitable alternatives do not exist.
- (5) Commission will ask the European Chemicals Agency, in accordance with Article 69 of REACH, to prepare a dossier conforming to the requirements of Annex XV relating to the use of cadmium and cadmium compounds in those types of plastic material that were restricted for the first time by Regulation (EU) No 494/2011, taking full account of the Council Resolution of 25 January 1988.
- (6) Until the restriction procedure is finalised, the restriction on the use of cadmium and its compounds should be limited to the types of plastic material listed in entry 23 of Annex XVII before the adoption of Regulation (EU) No 494/2011.
- (7) For reasons of legal certainty, this Regulation should apply from 10 December 2011.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Committee established under Article 133 of Regulation (EC) No 1907/2006,

HAS ADOPTED THIS REGULATION:

Article 1

Annex XVII to Regulation (EC) No 1907/2006 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 10 December 2011.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President

ANNEX

In Annex XVII to Regulation (EC) No 1907/2006, the table setting out the designation of the substances, groups of substances and mixtures and the conditions of restriction is amended as follows:

1. In the second column of entry 23, the first and second subparagraph of paragraph 1 are replaced by the following:

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| | <p>"1. Shall not be used in mixtures and articles produced from the following synthetic organic polymers (hereafter referred to as plastic material):</p> <ul style="list-style-type: none">– polymers or copolymers of vinyl chloride (PVC) [3904 10] [3904 21]– polyurethane (PUR) [3909 50]– low-density polyethylene (LDPE), with the exception of low-density polyethylene used for the production of coloured masterbatch [3901 10]– cellulose acetate (CA) [3912 11]– cellulose acetate butyrate (CAB) [3912 11]– epoxy resins [3907 30]– melamine – formaldehyde (MF) resins [3909 20]– urea – formaldehyde (UF) resins [3909 10]– unsaturated polyesters (UP) [3907 91]– polyethylene terephthalate (PET) [3907 60]– polybutylene terephthalate (PBT)– transparent/general-purpose polystyrene [3903 11]– acrylonitrile methylmethacrylate (AMMA)– cross-linked polyethylene (VPE)– high-impact polystyrene– polypropylene (PP) [3902 10] <p>Mixtures and articles produced from plastic material as listed above shall not be placed on the market if the concentration of cadmium (expressed as Cd metal) is equal to or greater than 0,01% by weight of the plastic material."</p> |
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- 2 In the second column of entry 23, in paragraph 1 the following subparagraph is added:

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| | <p>"By [two months after the entry into force], in accordance with Article 69, Commission shall ask the European Chemicals Agency to prepare a dossier conforming to the requirements of Annex XV in order to assess whether the use of cadmium and its compounds in plastic material,</p> |
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| | other than that listed in subparagraph 1, should be restricted." |
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