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COMMISSION DELEGATED REGULATION (EU) .../...

of 5.5.2025

**amending Annex I to Regulation (EU) 2019/1021 of the European Parliament and of the
Council as regards UV-328**

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The objective of Regulation (EU) 2019/1021 is to protect human health and the environment from persistent organic pollutants ('POPs') by prohibiting, phasing out as soon as possible, or restricting the manufacturing, placing on the market and use of substances subject to the Stockholm Convention on POPs ('the Convention'). At the eleventh meeting of the Conference of the Parties to the Stockholm Convention, which took place in Geneva, Switzerland in May 2023, it was decided to include UV-328 in Annex A to the Convention with certain specific exemptions. This decision should be reflected in Annex I to Regulation (EU) 2019/1021.

This delegated act implements decision SC-11/11 to list UV-328 in Annex A, in accordance with Article 15(1) of Regulation (EU) 2019/1021.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Experts designated by Member States were consulted in a meeting of the relevant expert group (the 'POP MS-CA expert group') on the draft delegated act and comments were taken into account. Relevant stakeholders, including the chemicals industry and the civil society, also took part in the discussions on the listing of UV-328 in Annex I to Regulation (EU) 2019/1021 in the 'POPs CA meeting' and comments were taken into account.

ECHA held a call for information from 31 May to 18 August 2023. From the comments received, it seems that most specific exemptions included in the Stockholm Convention decision SC-11/11 are needed for articles containing UV-328 imported in the Union. As UV-328 is included in Annex XIV to Regulation (EC) No 1907/2006 (REACH) and no application for authorisation has been received before the sunset date, the use of this substance in the Union, including to produce articles, is not permitted, except for uses exempted from the authorisation requirement under REACH.

A public consultation on the draft act was carried out through the public feedback mechanism portal from 30 July to 27 August 2024 and the comments have been taken into account as follows.

A stakeholder commented on the need for an exemption for the import into the Union of aircrafts and related spare parts. Such an exemption is not included in the Stockholm Convention decision. To avoid disrupting deliveries of aircrafts to EU airlines, the Commission is of the view that exemptions for civilian and military aircrafts and for the respective spare parts should be added. This will require the Union to opt-out from the listing of UV-328 under the Stockholm Convention.

Some stakeholders of the refrigeration and air conditioning sector commented that a large number of heat pumps containing UV-328 are in stock in the Union at distributors and wholesalers. According to the recently published information note on Article 4(2) of Regulation (EU) 2019/1021¹, articles in the Union that have already been assembled in a complex product are considered "articles in use" for the purpose of the exemption in Article 4(2) second subparagraph and can continue to be placed on the market and used in the Union. As heat pumps and parts of heat pumps are normally complex products, those already

¹ [587278b3-4248-629b-a715-ec3ef074afd4 \(europa.eu\)](https://european-council.europa.eu/media/en/press-communications/infographic/infographic_587278b3-4248-629b-a715-ec3ef074afd4.pdf)

imported in the Union on the date of application of Regulation (EU) 2019/1021 to UV-328 will benefit from the exemption for articles in use.

Several comments ask to be more specific in defining the exemptions by including references to specific machineries and to EU Regulations defining them. References were added whenever possible, but in some cases they could not be added because they are outside the scope of the specific exemptions set out in the Stockholm Convention decision.

Other comments concern the proposed UTC limit value of 1 mg/kg, noting that it cannot be measured and asking for a limit of 100 mg/kg (claimed to be the quantification limit with current analytical methods). The Commission considers that a limit value of 100 mg/kg should be set for the first two years, which should be progressively reduced to 10 and 1 mg/kg every two years, to allow the development of analytical methods.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The delegated act amends the list of chemicals in Annex I on the basis of developments under the Convention, as required by Article 15(1) of Regulation (EU) 2019/1021. The legal basis for the delegated act is Article 15(1) of Regulation (EU) 2019/1021.

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants², and in particular Article 15(1) thereof,

Whereas:

- (1) Regulation (EU) 2019/1021 implements the commitments of the Union under the 2001 Stockholm Convention on Persistent Organic Pollutants³ ('the Convention') and under the Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants⁴ ('the Protocol').
- (2) Annex A to the Convention contains a list of chemicals. Each Party to the Convention is required to prohibit the chemicals on the list and/or take the legal and administrative measures necessary to eliminate their production, use, import and export.
- (3) The Conference of the Parties to the Convention has, pursuant to Article 8(9) of the Convention, decided in its eleventh meeting held from 1 to 12 May 2023 to amend Annex A to the Convention to include UV-328 in that Annex with specific exemptions. The Union supported the inclusion of UV-328 in Annex A with specific exemptions as stipulated in Council Decision (EU) 2023/1006⁵.
- (4) Part A of Annex I to Regulation (EU) 2019/1021, which contains a list of the substances listed in the Convention and in the Protocol as well as substances listed only in the Convention, should therefore also be amended to include UV-328.
- (5) UV-328 is included in Annex XIV to Regulation (EU) No 1907/2006 of the European Parliament and of the Council⁶, with a latest application date on 27 May 2022 and a sunset date on 27 November 2023. No application for authorisation was submitted. In

² OJ L 169, 25.6.2019, p. 45, ELI: <http://data.europa.eu/eli/reg/2019/1021/oj>.

³ OJ L 209, 31.7.2006, p. 3.

⁴ OJ L 81, 19.3.2004, p. 37, ELI: <http://data.europa.eu/eli/prot/2004/259/oj>.

⁵ Council Decision (EU) 2023/1006 of 25 April 2023 on the position to be taken on behalf of the European Union at the eleventh meeting of the Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants as regards the proposals for amendments of Annex A to that Convention (OJ L 136, 24/05/2023, p. 55, ELI: <http://data.europa.eu/eli/dec/2023/1006/oj>).

⁶ 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, ELI: <http://data.europa.eu/eli/reg/2006/1907/oj>).

absence of an authorisation under Regulation (EU) No 1907/2006, UV-328 cannot be used in the EU, but it can still be imported in articles.

- (6) ECHA held a call for information from 31 May to 18 August 2023. The comments submitted support the need for the specific exemptions included in Decision SC-11/11 of the Conference of the Parties to the Convention, such as for land-based motor vehicles, mechanical separators in blood collection tubes, polarizers, photographic paper and for spare parts.
- (7) To allow the import of certain articles containing UV-328 until this substance is fully substituted, certain specific exemptions included in decision SC-11/11 should be granted in the Union for a duration of five years as regards the placing on the market of UV-328 in certain articles and the use of such articles containing UV-328. This concerns the following articles: mechanical separators in blood collection tubes, triacetyl cellulose film in polarisers and photographic paper. Exemptions should also be granted for articles in land-based motor vehicles. Land-based motor vehicles include cars, motorcycles, agricultural and construction motor vehicles and industrial trucks, including motor vehicles covered by Regulation (EU) 2018/858⁷, Regulation (EU) 167/2013⁸ and Regulation (EU) 168/2013⁹.
- (8) Furthermore, exemptions should be granted for the following articles coated with mixtures containing UV-328: land-based motor vehicles, engineering machines, rail transportation vehicles, and large steel structures with heavy-duty coatings. In addition, in line with decision SC-11/11, an exemption for the placing on the market and use of spare parts for certain applications where UV-328 was initially used in their production should also be granted.
- (9) Article 3 of Regulation (EU) 2019/1021 prohibits the manufacturing, placing on the market and use of substances listed in Annex I to that Regulation whether on their own, in mixtures or in articles. In this regard, it should be clarified that articles that contain UV-328 and that are produced or placed on the market under an exemption laid down in Annex I to that Regulation and that were already in use on the expiry date of the relevant exemption, are allowed to continue to be used after that date.
- (10) Information has been provided through the public feedback mechanism that many aircrafts that are to be delivered to EU airlines in the next 5 years and spare parts for such aircrafts contain UV-328. To avoid serious consequences for EU airlines, an exemption that allows continued delivery of such aircrafts and spare parts for aircrafts should be granted.
- (11) To reinforce the application and enforcement in the Union of Article 3(1) of Regulation (EU) 2019/1021, a limit value should be set for UV-328 occurring as an unintentional trace contaminant in substances, mixtures or articles. To allow laboratories to improve the accuracy of relevant analytical methods and to ensure their

⁷ Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/858/oj>).

⁸ Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles (OJ L 60, 2.3.2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/167/oj>).

⁹ Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles (OJ L 60, 2.3.2013, p. 52, ELI: <http://data.europa.eu/eli/reg/2013/168/oj>).

uniform and adequate application, the unintentional trace contaminant limit should be set at 100 mg/kg at the entry into force of this Regulation, at 10 mg/kg two years after the entry into force and at 1 mg/kg four years after the entry into force.

(12) Regulation (EU) 2019/1021 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EU) 2019/1021 is amended in accordance with the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 5.5.2025

For the Commission
The President
Ursula VON DER LEYEN