

Stakeholder consultation on exemption request evaluation under Directive 2011/65/EU

1 Introduction

The RoHS Directive (2002/95/EC) (RoHS 1) has been recasted and has now become Directive 2011/65/EU that entered into force on 21 July 2011, repealing Directive 2002/95/EC on 3 January 2013. Directive 2011/65/EU is available here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32011L0065:EN:NOT>.

The European Commission has appointed the Oeko-Institut and Fraunhofer IZM¹ to technically assist in reviewing the requests for exemptions from the substance restrictions of Directive 2011/65/EU (RoHS 2). The exemption requests have to be evaluated against the criteria for exemptions in Art. 5(1)(a).

This consultation is run by Oeko-Institut together with Fraunhofer IZM on behalf of the European Commission, with the purpose to collect stakeholder contributions, under <http://rohs.exemptions.oeko.info/index.php?id=279>. Please note that the role of Oeko-Institut and Fraunhofer IZM is only to collect and evaluate the information provided by stakeholders with a goal to provide the Commission with a recommendation on an exemption's justification. Any decision making, however, is the sole responsibility of EU institutions.

Neither the fact that a stakeholder consultation is being launched, nor the results of this stakeholder consultation should be interpreted as a political or legal signal that the Commission intends to take a given action.

2 Consultation scope

The scope of the current consultation concerns eight exemption requests: three for exemption renewal and five for new exemptions, as shown in the table below.

¹ Contract is implemented through Framework Contract No. ENV.A.2/FRA/2015/0008 led by Oeko-Institut

Oeko-Institut and Fraunhofer IZM – on behalf of the European Commission – has published the requests as worded by the applicant, therefore the applicant is solely responsible for the wording and supporting evidence it has provided.

Table 1: RoHS exemption requests covered by this stakeholder consultation

No.	Initially Proposed Wording	Applicant
Requested renewal/ amendment of existing exemption		
Annex III, 41	Lead in solders and termination finishes of electrical and electronic components and finishes of printed circuit boards used in ignition modules and other electrical and electronic engine control systems, which for technical reasons must be mounted directly on or in the crankcase or cylinder of hand-held combustion engines (classes SH:1, SH:2, SH:3 of Directive 97/68/EC of the European Parliament and of the Council (2))	Stihl
Annex IV, 37	Lead in platinized platinum electrodes used for conductivity measurements where at least one of the following conditions applies: (a) wide-range measurements with a conductivity range covering more than 1 order of magnitude (e.g. range between 0,1 mS/m and 5 mS/m) in laboratory applications for unknown concentrations; (b) measurements of solutions where an accuracy of +/- 1 % of the sample range and where high corrosion resistance of the electrode are required for any of the following: (i) solutions with an acidity < pH 1; (ii) solutions with an alkalinity > pH 13; (iii) corrosive solutions containing halogen gas; (c) measurements of conductivities above 100 mS/m that must be performed with portable instruments.	JBCE
Annex IV, 41	Lead as a thermal stabiliser in polyvinyl chloride (PVC) used as base material in amperometric, potentiometric and conductometric electrochemical sensors which are used in in-vitro diagnostic medical devices for the analysis of blood and other body fluids and body gases.	Intertek
2017-3	Lead in solders of alpha spectrometers, pulse-processing electronics, scintillation detectors and spectroscopy systems used in equipment to identify radiation, expiring on 23 July 2024	Ametek
2017-4	Lead in solder and hexavalent chromium in parts used to make RF detectors in Mass Spectrometers, to be added to Annex IV	Sciex
2017-5	Lead in thermal cut-off fuses overmolded into solenoid coils used in industrial monitoring and control instruments (Category 9) and EEE falling under Category 11.	Emerson
2017- 6	Bis (2-ethylhexyl) phthalate in rubber parts such as O-rings, seals, vibration dampers, gaskets, hoses, grommets and cap-plugs that are used in engine systems including exhausts and turbochargers that are designed for use in equipment that is not designed solely for consumer use.	Euromot
2017-7	Lead in solders of sensors, actuators and engine control units (ECUs) that are used to monitor and control engine systems including turbochargers and exhaust emission controls of internal combustion engines used in equipment that are not intended to be used solely by consumers.	Euromot

3 How to submit a stakeholder contribution

The following general guidelines should be taken into account:

- Refer to the exemption request listed in Table 1 and have a clear reference as to the exemption number.
- Take the **questionnaires** on the exemption requests into account (questionnaires available under the exemption request specific pages, accessible through the following link: <http://rohs.exemptions.oeko.info/index.php?id=279> > select exemption through the tabs on the left).
- Clearly state whether the exemption requests are supported or whether no justification is apparent. To support your contribution, it is required to **provide relevant technical and scientific evidence** in accordance with the criteria listed in Article 5(1)(a). Explain the reasons why potential alternative materials, designs or processes are unsuitable with quantitative data wherever possible. If possible, **provide photographs or diagrams** to illustrate claims. Provision of third party data and information may be beneficial to further support your view. **Sources of information** should be referenced where possible.
- Provide your input to the consultation as early as possible in order to allow other stakeholders to comment.
- Exemptions to the RoHS Directive can not be justified on the basis of confidential information. Should you wish such information to be used as a justification for an exemption, you need to give explicit agreement to the Commission and the project team to disclose the relevant information on their website.
- Nevertheless, comments shall be clearly marked “**NOT FOR PUBLICATION**” if they are not to be posted as comments on the consultation website. Please also refrain from submitting confidential and non-confidential information mixed in one document!
- Please refrain from submitting several identical comments in order to support a position / comment. It is more useful and efficient to include a cover letter stating that a submission is supported by several parties.
- Submit **compact and comprehensive information** instead of very large and extensive documentation. It will facilitate formulating the need for further information.
- It shall be noted that generic comments, statements, position papers and any additional request for exemptions will not be taken into account.
- **Do not submit new exemption requests.** New exemption requests as well as questions or remarks concerning results of former evaluations have to be addressed to the European Commission directly.
- Please be aware that it might be necessary to give a negative recommendation if important information is missing.

- Always include **your contact details** (or of the person responsible for further contact with name, organisation, email and phone number). The evaluation procedure will normally lead to further questions which we need to address to you directly.
- If you submit documents in **PDF-formats**, please make sure that text can be marked and copied selectively from these documents in order to avoid retyping (which is a possible source of mistakes) when summarising your arguments for the review report.

Interested parties are invited to send their comments by e-mail, at the latest on 01 December 2017, to rohs.exemptions@oeko.de or by post to:

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Responses submitted electronically will be posted on this web site as they are received, unless respondents specifically request that their contribution should not be published. In the latter case, responses should be clearly and visibly marked with the words "**Not for publication**".