



Brussels, **XXX**
[...] (2024) **XXX** draft

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

of **XXX**

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

(Text with EEA relevance)

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

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 each Member State and all relevant stakeholders, including the chemical industry and the civil society, were consulted in the relevant expert group (the 'POPs CA meeting') on 14 June 2023, 29 November 2023 and on 7 June 2024 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 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 to** and the comments have been taken into account.

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 pollutants¹, 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 Pollutants² ('the Convention') and under the Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants³ ('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) 2023/1006⁴.
- (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 Council⁵, with a latest application date on 27 May 2022 and a

¹ OJ L 169, 25.6.2019, p. 45, ELI: <http://data.europa.eu/eli/reg/2019/1021/oj>.

² OJ L 209, 31.7.2006, p. 3.

³ OJ L 81, 19.3.2004, p. 37, ELI: <http://data.europa.eu/eli/prot/2004/259/oj>.

⁴ 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>).

⁵ 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

sunset date on 27 November 2023. No application for authorisation was submitted. In 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 supported the need for the specific exemptions included in Decision SC-11/11 of the Conference of the Parties to the Convention, such as 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, the Commission considers that certain specific exemptions included in Decision SC-11/11 should be granted 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 articles in mechanical separators in blood collection tubes, triacetyl cellulose film in polarisers and photographic paper. The exemption should also be granted for articles in land-based motor vehicles such as land-based motor vehicles which are covered by Regulation (EU) 858/2018 and Regulation (EU) 167/2013. Land-based motor vehicles include cars, motorcycles, agricultural and construction vehicles and industrial trucks. In addition, the Commission considers that 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.
- (8) Articles containing UV-328 placed on the market within a specific exemption laid down in Annex I to Regulation (EU) 2019/1021 are not allowed to be placed on the market after the relevant exemption expires. However, articles containing UV-328 placed on the market within a specific exemption laid down in that Annex that were already in use by the expiry date of the relevant exemption should be allowed to continue to be used after that date. This is to avoid the need to recall articles containing UV-328 that were already in use by their final user at the expiry of the relevant exemption.
- (9) To reinforce the application and enforcement in the Union of Article 3(1), point (b) of Regulation (EU) 2019/1021, a limit value should be set for UV-328 occurring as an unintentional trace contaminant in substances, mixtures and articles. That limit value should be set at 1 mg/kg.
- (10) 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*.

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>).

This Regulation shall be binding in its entirety and directly applicable in all Member States.
It shall apply from 26 February 2025.
Done at Brussels,

For the Commission
The President
Ursula VON DER LEYEN

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