



EUROPEAN PARLIAMENT

2009 - 2014

Committee on the Environment, Public Health and Food Safety

2012/0066(COD)

11.12.2012

AMENDMENTS

17 - 48

Draft report
Vladko Todorov Panayotov
(PE497.921v01-00)

proposal for a directive of the European Parliament and of the Council amending Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators as regards the placing on the market of portable batteries and accumulators containing cadmium intended for use in cordless power tools

Proposal for a directive
(COM(2012)0136 – C7-0087/2012 – 2012/0066(COD))

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PE501.952v01-00

EN

United in diversity

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Amendment 17

Carl Schlyter

Proposal for a directive

Title 1

Text proposed by the Commission

Proposal for a
DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
of [...]
amending Directive 2006/66/EC on
batteries and accumulators and waste
batteries and accumulators as regards the
placing on the market of portable batteries
and accumulators containing cadmium
intended for use in cordless power tools

Amendment

Proposal for a
DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
of [...]
amending Directive 2006/66/EC on
batteries and accumulators and waste
batteries and accumulators as regards the
placing on the market of portable batteries
and accumulators containing cadmium
intended for use in cordless power tools, *of
button cells with low mercury content,
and on ready removability of batteries and
accumulators*

Or. en

Justification

The revision of the Directive was triggered by the legal obligation to review the exemption for cadmium in accumulators used in cordless power tools by September 2010. This also provides an opportunity to end the exemption for button cells with a mercury content of no more than 2% by weight, which emerged as "a clear winner in terms of environmental benefits, with very limited adverse economic impacts" according to a Commission study. The provisions on removability should also be clarified.

Amendment 18

Dan Jørgensen

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) The existing exemption for that use
should continue to apply until 31

Amendment

(4) The existing exemption for that use
should continue to apply until 31

December **2015** in order to enable industry to further adapt the relevant technologies.

December **2013** in order to enable industry to further adapt the relevant technologies.

Or. en

Justification

Cadmium is highly hazardous to the environment and is toxic to human beings. In the REACH-regulation it is classified as a substance of very high concern. The industry has had many years to work on phasing out NiCd-batteries as alternatives do exist and work well. The exemption that exists for NiCd-batteries in directive 2006/66/EC should therefore be removed as soon as possible.

Amendment 19
Carl Schlyter

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) The existing exemption for that use should *continue to* apply **until 31 December 2015 in order to enable industry to further adapt the relevant technologies.**

Amendment

(4) The existing exemption for that use should **no longer** apply **after 30 June 2014.**

Or. en

Justification

Substitution of cadmium when alternatives are available is established Community policy since 1988 and applied since many years in legislation on end of life vehicles and on electrical and electronic equipment (RoHS). In the first reading of the batteries directive in 2004, the European Parliament did not adopt any exemption for cadmium in power tools. Alternatives to cadmium in CPTs are widely available since many years. There is no need to grant more time for industry "to adapt".

Amendment 20
Romana Jordan

Proposal for a directive
Recital 4

PE501.952v01-00

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Text proposed by the Commission

(4) The existing exemption for that use should continue to apply until 31 December **2015** in order to enable industry to further adapt the relevant technologies.

Amendment

(4) The existing exemption for that use should continue to apply until 31 December **2018** in order to enable industry to further adapt the relevant technologies.

Or. sl

Amendment 21
Sophie Auconie

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) The existing exemption for that use should continue to apply until 31 December **2015** in order to enable industry to **further** adapt the relevant technologies.

Amendment

(4) The existing exemption for that use should continue to apply until 31 December **2018** in order to enable **producers, the recycling industry and the consumers concerned** to adapt **to** the relevant **substitute** technologies **across all the regions of the Union in a uniform manner**.

Or. fr

Justification

As the use of Ni-Cd batteries is not dangerous in itself, a sufficiently long transition period should be provided to allow those involved in the sector to adapt.

Amendment 22
Miroslav Ouzký

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) The existing exemption for that use should continue to apply until 31

Amendment

(4) The existing exemption for that use should continue to apply until 31

December **2015** in order to enable industry to further adapt the relevant technologies.

December **2018** in order to enable **producers, the recycling industry and consumers along the whole value chain** to further adapt the relevant **substitute** technologies **across all the regions of the Union in a uniform manner**.

Or. en

Justification

The absence of declared risk for the use of Ni-Cd batteries in Cordless Power Tools allows for a longer transition period in order to leave the business to adapt to technological changes. The cost impact on consumer will be significant as a result of the earlier removal of low cost alternatives in the Cordless Power Tools products range. According to industry, the differential cost impact for 1.0 million units would represent more than € 50.0 million to be supported by the consumer.

Amendment 23 **Carl Schlyter**

Proposal for a directive **Recital 4 a (new)**

Text proposed by the Commission

Amendment

(4 a) The definition of 'placing on the market' should be aligned with the definition used in 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.

Or. en

Justification

The use of certain hazardous substances in electrical and electronic equipment (e.g. a corded power tool) falls under the RoHS Directive, while their use in batteries and accumulators for electrical and electronic equipment (e.g. a cordless power tool) falls under the Batteries Directive. Currently, these directives use different definitions for 'placing on the market'. It is more appropriate to align the definitions, also in light of the 2008 amendment of Art. 6(2) of the Batteries Directive.

Amendment 24
Miroslav Ouzký

Proposal for a directive
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6 a) The producer registration requirements and format should be consistent with the registration requirements and format established pursuant to Article 16(3) of, and Annex X, Part A to, Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE)¹.

The producer registration requirements and format should remain consistent with the registration requirements and format adopted by the Commission Decision of August 5, 2009 - (2009/603/EC) - establishing requirements for registration of producers of batteries and accumulators in accordance with Directive 2006/66/EC of the European Parliament and of the Council.

¹ OJ L 197, 24.7.2012, p. 38.

Or. en

Justification

The registration requirements for the batteries were adopted in a Commission Decision of August 2009(2009/603/EC). There are registration systems in the EU not only for batteries incorporated in equipment but also for batteries sold individually. The requirements of Commission Decision 2009/603/EC should also remain applicable.

Amendment 25
Zofija Mazej Kukovič

Proposal for a directive
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The producer registration requirements and format must, where appropriate, be consistent with Article 16(3) of, and Annex X, part A to, Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment.

Or. sl

Justification

Since batteries and accumulators are built into the EEE, it is appropriate for the producer registration process to follow the same procedure. This will reduce the administrative burden on producers.

Amendment 26
Carl Schlyter

Proposal for a directive
Article 1 – point -1 (new)
Directive 2006/66/EC
Article 3 – point 13 a (new)

Text proposed by the Commission

Amendment

-1. In Article 3 the following point (13a) is inserted:

'(13a)'making available on the market' means any supply of a battery or an accumulator for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;'

Or. en

Justification

The Batteries Directive should follow the same definitions as the Directive on the Restriction of Hazardous Substances in electrical and electronic equipment (RoHS) to ensure a coherent approach with regard to restrictions on the placing of the market. This new definition, together with a revised definition for 'placing on the market' would also be coherent with Directive 2008/103/EC that clarified the meaning of 'placing on the market' in Art. 6, but failed to adapt the definitions accordingly.

Amendment 27

Carl Schlyter

Proposal for a directive

Article 1 – point -1a (new)

Directive 2006/66/EC

Article 3 – point 14

Text proposed by the Commission

Amendment

-1a. In Article 3 point (14) of is replaced by the following:

'placing on the market' means making available an EEE on the Union market for the first time;'

Or. en

Justification

The Batteries Directive should follow the same definitions as the Directive on the Restriction of Hazardous Substances in electrical and electronic equipment (RoHS) to ensure a coherent approach with regard to restrictions on the placing of the market. This revised definition would also be coherent with Directive 2008/103/EC that clarified the meaning of 'placing on the market' in Art. 6, but failed to adapt the definition(s) accordingly.

Amendment 28

Carl Schlyter

Proposal for a directive

Article 1 – point - 1b (new)

Directive 2006/66/EC

Article 4 – paragraph 2

Text proposed by the Commission

Amendment

-1b. Article 4(2) is replaced by the following:

'2. The prohibition set out in paragraph 1(a) shall not apply to button cells with a mercury content of no more than 2% by weight until 30 June 2014.'

Or. en

Justification

Mercury-free button cells are commercially available for all applications and with same performance parameters as those containing mercury. Even the European Portable Battery Association is asking for a phase-out by 31 December 2014, instead of 31 December as proposed by the rapporteur. The phase-out should be done as fast as possible, which would be end of June 2014 when the time for transposition is reduced from 18 months to 12 months.

Amendment 29
Dan Jørgensen

Proposal for a directive
Article 1 – point - 1b (new)
Directive 2006/66/EC
Article 4 - paragraph 2

Text proposed by the Commission

Amendment

-1b. Article 4(2) is replaced by the following:

'2. The prohibition set out in paragraph 1(a) shall not apply to button cells with a mercury content of no more than 2 % by weight until 31 December 2013.'

Or. en

Justification

As documented by the Commission in the BIOIS 2012 report it is necessary to reduce the risks of mercury being released into the environment. And the industry (EPBA) itself confirms that it is possible and realistic to remove the exemption for mercury in button cell batteries by

2014 in directive 2006/66/EC.

Amendment 30
Zofija Mazej Kukovič

Proposal for a directive
Article 1 – point -1b (new)
Directive 2006/66/EC
Article 4 – paragraph 2

Text proposed by the Commission

Amendment

-1b. Article 4(2) is replaced by the following:

'2. The prohibition set out in paragraph 1(a) shall not apply to button cells with a mercury content of no more than 2% by weight until 31 December 2014.'

Or. sl

Justification

Button cells not containing mercury are already on the market. The deadline is justified in order to ensure an effective transition and to remove any concerns over safety and technological effectiveness. The proposed date also meets the condition of ensuring safety for the most vulnerable groups, particularly children, who are unnecessarily exposed to mercury.

Amendment 31
Vladko Todorov Panayotov

Proposal for a directive
Article 1 – point - 1b (new)
Directive 2006/66/EC
Article 4–paragraph 2

Text proposed by the Commission

Amendment

-1b. Article 4(2) is replaced by the following:

'2. The prohibition set out in paragraph 1(a) shall not apply to button cells with a mercury content of no more than 2 % by

weight until 31 December 2014'

Or. en

Justification

It is important to reduce the risk of mercury being released into the environment as button cells easily escape separate collection. The EU button cell market is already experiencing a shift towards Hg-free button cells; currently, Hg-free button cells represent approximately 39% of the EU button cell market. Hg-free versions are now commercially available for all applications and with same performance parameters as the mercury ones. Countries, exporting large amounts of button cells to the EU market, such as China, will be encouraged to accelerate the switch to the manufacture of Hg-free button cells, which could have a global impact on the use of mercury in this industry sector.

Amendment 32

Dan Jørgensen

Proposal for a directive

Article 1 – point 1

Directive 2006/66/EC

Article 4 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) cordless power tools, until 31
December **2015**.

(c) cordless power tools, until 31
December **2013**.

Or. en

Justification

Cadmium is highly hazardous to the environment and is toxic to human beings. In the REACH-regulation it is classified as a substance of very high concern. The industry has had many years to work on phasing out NiCd-batteries as alternatives do exist and work well. The exemption that exists for NiCd-batteries in directive 2006/66/EC should therefore be removed as soon as possible.

Amendment 33

Carl Schlyter

Proposal for a directive

Article 1 – point 1

PE501.952v01-00

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Directive 2006/66/EC
Article 4 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) cordless power tools, until **31
December 2015.**

(c) cordless power tools, until **30 June
2014.**

Or. en

Justification

The Commission's impact assessment estimated an environmental benefit that is 60% higher for ending the derogation in 2013 as compared to 2016, with around 100 possible cancer cases less. As alternatives to cadmium in CPTs are widely available since many years, there is no need to grant more time for industry just to save some costs at the expense of human health and the environment. The date proposed is even less ambitious than option 2 assessed by the Commission in its impact assessment.

Amendment 34
Romana Jordan

Proposal for a directive
Article 1 – point 1
Directive 2006/66/EC
Article 4 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) cordless power tools, until 31
December **2015.**

(c) cordless power tools, until 31
December **2018.**

Or. sl

Amendment 35
Sophie Auconie

Proposal for a directive
Article 1 – point 1
Directive 2006/66/CE
Article 4 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) cordless power tools, until 31
December **2015**.

(c) cordless power tools, until 31
December **2018**.

Or. fr

Justification

As the use of Ni-Cd batteries is not dangerous in itself, a sufficiently long transition period should be provided to allow those involved in the sector to adapt.

Amendment 36

Miroslav Ouzký

Proposal for a directive

Article 1 – point 1

Directive 2006/66/EC

Article 4 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) cordless power tools, until 31
December **2015**.

(c) cordless power tools, until 31
December **2018**.

Or. en

Justification

The earlier removal of the exemption will impact the investment program of recyclers into recycling processes for new batteries technologies. The absence of declared risk for the use of Ni-Cd batteries in Cordless Power Tools allows for a longer transition period in order to allow business to adapt to technology changes. The cost impact on consumer will be significant as a result of the removal of low cost alternatives in the Cordless Power Tools products range.

Amendment 37

Carl Schlyter

Proposal for a directive

Article 1 – point 1 a (new)

Text proposed by the Commission

Amendment

1a. Article 6(2) is replaced by the following:

'2. Member States shall take the necessary measures to ensure that batteries or accumulators which do not meet the requirements of this Directive are not placed on the market.

Member States shall take the necessary measures to ensure that batteries or accumulators which do not meet the requirements of this Directive are *no longer made available on the market one year after the respective phase-out date.*

Batteries and accumulators which do not meet the requirements of this Directive and which are placed on the market after *the respective phase-out dates* shall be withdrawn from the market.

Or. en

Justification

In light of the new phase-out dates, the current Article 6(2), as amended by 2008/103/EC, needs to be adapted accordingly, in line with the new definition for 'placing on the market' taken from RoHS, this would bring about coherence with regard to the application of the restriction dates. However, there should also be an end-date by which time products, which must no longer be put onto the market, must also no longer be made available on the market. One year is a reasonable time for this.

Amendment 38
Dan Jørgensen

Proposal for a directive
Article 1 – point 1 a (new)
Directive 2006/66/EC
Article 6 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

1a. The following subparagraph is added to Article 6(2):

'Portable batteries and accumulators, containing cadmium intended for use in cordless power tools which do not meet the requirements in Article 4(1) shall not be placed on the market after 31 December 2013, and if still on the market after 31 December 2014, shall be withdrawn from the market.'

Or. en

Justification

One year after the ban on placing batteries containing cadmium enters into force it is reasonable to expect that any remaining products on the market have been collected.

Amendment 39

Dan Jørgensen

Proposal for a directive

Article 1 – point 1 a (new)

Directive 2006/66/EC

Article 6 – paragraph 2 – subparagraph 2 b (new)

Text proposed by the Commission

Amendment

1a. The following subparagraph is added to Article 6(2):

'Button cells not meeting the requirements in Article 4(1) shall not be placed on the market after 31 December 2013, and if still on the market after 31 December 2014 shall be withdrawn from the market;'

Or. en

Justification

One year after the ban on placing button cell batteries containing mercury enters into force it is reasonable to expect that any remaining products on the market have been collected.

Amendment 40

Vladko Todorov Panayotov

Proposal for a directive

Article 1 – point 1 a (new)

Directive 2006/66/EC

Article 6 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

1a. The following subparagraph is added to Article 6(2):

'Button cells not meeting the requirements in Article 4(1), but which were lawfully placed on the market prior to 31 December 2014, may continue to be marketed until 31 December 2016.'

Or. en

Amendment 41

Zofija Mazej Kukovič

Proposal for a directive

Article 1 – point 1 a (new)

Directive 2006/66/EC

Article 6 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The following subparagraph is added to Article 6(2):

'Stocks of batteries and accumulators intended for use in cordless power tools which were lawfully placed on the market before the aforementioned date may be sold until no later than 31 December 2017.'

Justification

Extending the existing exemption for nickel-cadmium batteries will allow economic entities throughout the value chain to further adapt. From an economic and environmental point of view it makes no sense to immediately withdraw from the market stocks of batteries and accumulators not meeting the requirements. For recycling and for the entire waste process it is more effective to set a deadline. Collecting waste material will also help to ensure efficient reuse of these highly important raw materials.

Amendment 42**Miroslav Ouzký****Proposal for a directive****Article 1 – point 1 a (new)**

Directive 2006/66/EC

Article 6 – paragraph 2 – subparagraph 2 a (new)

*Text proposed by the Commission**Amendment*

1a. The following subparagraph is added to Article 6(2):

'Portable batteries and accumulators, containing cadmium intended for use in cordless power tools which do not meet the requirements in Article 4(1) shall not be placed on the market after 31 December 2018. Batteries and accumulators which do not meet the requirements of this Directive and which are placed on the market after this date shall be withdrawn from the market.'

Or. en

Justification

Industry already started to offer alternative batteries technologies such as Lithium-Ion batteries for the Cordless Power Tools application. In a natural business cycle the NiCd technology will eventually be replaced with Li-ion and other new technologies. Therefore, there is no reason to force a market withdrawal. Indeed according to Regulation 765/2008, a market withdrawal is only justified on the basis of the completion of a Risk Assessment and when the measure is proportional to the risk.

Amendment 43
Miroslav Ouzký

Proposal for a directive
Article 1 – point 1 b (new)
Directive 2006/66/EC
Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

1b. The following paragraph is added to Article 6:

'2a. Replacement batteries shall be allowed for placing on the market for a period of five years after the effective removal of the exemption of Article 4(3) of the Batteries Directive 2006/66/EC;'

Or. en

Justification

In order to avoid the unnecessary production of waste (WEEE) from cordless tools, when the battery fails, it should be permitted to buy a replacement battery while keeping the cordless power tool in use. This will have a positive cost impact for the end user. It is also a practice which takes into account resource efficiency principles.

Amendment 44
Carl Schlyter

Proposal for a directive
Article 1 – point 2 a (new)
Directive 2006/66/EC
Article 11

Text proposed by the Commission

Amendment

2a. Article 11 is replaced by the following:

'Removal of waste batteries and accumulators

Member States shall ensure that manufacturers design appliances in such

a way that waste batteries and accumulators can be readily removed by *the end-user*. Appliances into which batteries and accumulators are incorporated shall be accompanied by instructions showing how they can be removed safely by *the end-user* and, where appropriate, informing the end-user of the type of the incorporated batteries and accumulators. These provisions shall not apply where, for safety, performance, medical or data integrity reasons, continuity of power supply is necessary and requires a permanent connection between the appliance and the battery or accumulator.'

Or. en

Justification

Article 11 in the current Batteries Directive establishes provisions on the removal of waste batteries and accumulators. While this was always understood to mean ready removability by the end user, so as to e.g. ensure longer durability of products by easy removal of accumulators that no longer work, not all companies comply with this (e.g. certain very popular smart phones and tablets). It should therefore be explicitly stated that ready removability means easy removability by the end user.

Amendment 45

Zofija Mazej Kukovič

Proposal for a directive

Article 1 – point 4

Directive 2006/66/EC

Article 12 – paragraph 7

Text proposed by the Commission

4. Article 12(7) is **deleted**;

Amendment

4. Article 12(7) is **replaced by the following**:

'7. Before the Commission proposes amending or supplementing Annex III it shall consult with relevant stakeholders, in particular producers, collectors,

recyclers, treatment operators, environmental organisations, consumer organisations and employee associations. It shall inform the committee referred to in Article 24(1) of the outcome of this consultation.'

Or. sl

Amendment 46
Carl Schlyter

Proposal for a directive
Article 2 – paragraph 1

Text proposed by the Commission

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 1(1) of this Directive by **18** months after entry into force at the latest. They shall forthwith communicate to the Commission the text of those provisions.

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 1(1) of this Directive by **12** months after entry into force at the latest. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

Justification

To ensure a swift phase-out of cadmium in accumulators of cordless power tools as well as of mercury in button cells by the end of June 2014, the time for Member States to transpose the provisions of the Directive should be reduced to 12 months, rather than 18 months.

Amendment 47
Jean-Pierre Audy

Proposal for a directive
Article 3 – title

Text proposed by the Commission

Entry into force

Amendment

Entry into force **and consolidation**

Or. fr

Amendment 48
Jean-Pierre Audy

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

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

Amendment

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. ***A consolidated version of Directive 2006/66/EC shall be drawn up within three months of the date of entry into force of this Directive.***

Or. fr