

# Questionnaire 1 (Clarification) for Exemption III-18(b) (LightingEurope)

## Current wording of exemption 18(b)

Table 1: Currently valid exemption wordings

No.	Exemption	Scope and dates of applicability
III-18(b)	Lead as activator in the fluorescent powder (1 % lead by weight or less) of discharge lamps when used as sun tanning lamps containing phosphors such as BSP (BaSi2O5:Pb)	<p>Applies to categories 1 to 11.</p> <p>Expires on</p> <ul style="list-style-type: none"> <li>- 21 July 2021 for categories 1-7 and 10.</li> <li>- 21 July 2021 for category 8 other than in vitro diagnostic medical devices and category 9 other than industrial monitoring and control instruments.</li> <li>- 21 July 2023 for category 8 in vitro diagnostic medical devices.</li> <li>- 21 July 2024 for category 9 industrial monitoring and control instruments, and for category 11.</li> </ul>

## Acronyms and Definitions

Cat.	Category, referring to the categories of EEE specified in Annex I of the current RoHS Directive
COM	European Commission
EEE	Electrical and electronic equipment

### 1. Background

Bio Innovation Service, UNITAR and Fraunhofer IZM have been appointed<sup>1</sup> by the European Commission through for the evaluation of applications for the review of requests for new exemptions and the renewal of exemptions currently listed in Annexes III and IV of the RoHS Directive 2011/65/EU.

LightingEurope submitted a request the renewal of the above exemption for cat. 11 with the wording, scope and validity period shown in the below table:

<sup>1</sup> Implemented through the specific contract 070201/2020/832829/ENV.B.3 under the Framework contract ENV.B.3/FRA/2019/0017

Table 2: Requested exemption renewal

No.	Requested exemption	Requested scope and dates of applicability
III-18(b)	Lead as activator in the fluorescent powder (1 % lead by weight or less) of discharge lamps when used as sun tanning lamps containing phosphors such as BSP (BaSi2O5:Pb)	Applies to category 11 and expires on 21 July 2029 (= 2024 + 5 years)

As result of a first review we identified that some information is missing. Against this background the questions below are intended to clarify some aspects concerning the request at hand.

We ask you to kindly answer the below questions until 2<sup>nd</sup> October 2023 latest.

## 2. Questions

1. Could you please confirm that Table 2 correctly reflects the requested renewal of the exemption?

We can confirm that Table 2 above correctly reflects the requested renewal of the exemption.

2. Exemption 18(b) was reviewed by Baron et al. (2022)<sup>2</sup>. They recommended specifying exemption 18(b) like listed in
3. Table 3 below.

### **Table 3: Renewal of current exemption 18(b) recommended by Baron et al. (2022)**

<sup>2</sup> C.f. Öko-Institut, [https://rohs.exemptions.oeko.info/fileadmin/user\\_upload/RoHS\\_Pack\\_24/RoHS\\_Pack-24\\_final\\_16022022.pdf](https://rohs.exemptions.oeko.info/fileadmin/user_upload/RoHS_Pack_24/RoHS_Pack-24_final_16022022.pdf)



Exemption formulation	Duration
	Expires on:
18(b) Lead as activator in the fluorescent powder (1 % lead by weight or less) of discharge lamps when used as sun tanning lamps containing phosphors such as BSP (BaSi2O5:Pb)	<ul style="list-style-type: none"> <li>– 21 July 2026 for categories 5, 8 and 9;</li> <li>– 21 July 2023 for category 8 in vitro diagnostic medical devices;</li> <li>– 21 July 2024 for category 9 industrial monitoring and control instruments, and for category 11.</li> </ul>
<b>New item:</b> 18(b)-II: Lead as activator in the fluorescent powder (1 % lead by weight or less) of discharge lamps containing phosphors such as BSP (BaSi2O5:Pb) when used in medical phototherapy equipment, incl. extracorporeal photopheresis lamps	<ul style="list-style-type: none"> <li>– 21 July 2026 for categories 5, 8 and 9</li> </ul>

Source: Baron et al. (2022)

The European Commission (COM) have not yet officially published their decision as to the adoption of the above recommendation. The COM wish the consultants to assess in this current review round whether there are any substantial reasons in line with Art. 5(1)(a) against the adoption of recommendations resulting from previous reviews in 2020 to 2022 for EEE of categories 8, 9 and 11.

According to your exemption request (Pack 24) *“Special purpose lamps indeed can be considered also as a spare part (or consumable) in certain applications such as sun-tanning cabins and medical equipment.”*

In addition, remember your response during Pack 24 Review: *“LE replied that due to the specialty of the lamps and dedicated applications / equipment, the lamps are used in, only cat. 5, 8, and 9 are of relevance.”*

Please name explicit cases, where the special purpose lamp is not considered as a product covered by category 5, 8 or 9, but category 11 instead.

Back in 2020, the response quoted above was related only to those categories that were expiring in July 2021 and were thus relevant for that renewal application. As Category 11 was still valid until July 2024, it was not taken into account when drafting the 2020 application.

Suntanning lamps are used in suntanning equipment. The categorisation under RoHS has brought a lot of uncertainty as to which category products should be grouped into. In the absence of any clear legal guidance, it is ultimately up to every equipment manufacturer to decide in which category he sees his product (see also the European Commission [RoHS FAQ](#), p.18).



It is not completely clear how to classify suntanning equipment and consequently we see that the classification can differ. Manufacturers are not sure whether to exclusively focus on the suntanning lamps and assign them to Category 5 (lighting equipment) or whether the focus should be on the equipment itself (e.g., sunbeds) which includes lighting functionalities. Due to this uncertain situation, the application for Category 11 (other EEE) was made for reasons of legal certainty, to ensure that certain suntanning equipment types do not end up being unintentionally excluded.

4. In the exemption request you state: *“These lamps are not used for the production of visible light so general lighting efficacy standards do not apply”*. Please explain why you nevertheless requested the exemption for category 5 (lighting equipment) in the past.

‘Lighting equipment’ does not only refer to general lighting. Special purpose lighting, which can be invisible, is also considered as lighting equipment and thus covered under Category 5. (For a more detailed explanation of ‘general lighting’ v ‘special purpose lighting’ please see our [Mercury FAQ](#), part.1.1 and Annex 1). In addition, there are also hybrid systems where a lamp producing invisible light is combined with a lamp producing small portions of light in the visible spectrum.

5. Please clarify the category under which the indoor tanning appliances (tanning beds and booths, tabletop appliance for facial tanning) fall.

In line with the explanations above, indoor tanning appliances could thus fall under both Category 5 or Category 11. LightingEurope regards the decision of the European Commission to avoid the separation in categories in the decisions for the exemptions 1-4 of Annex III from February 2022 as very helpful. A separation of this exemption in different categories is not helpful as a clear and legally certain classification is not available. The named application is specifically "sun tanning", we do not have information that there are possibilities of uses in products falling in other categories.

6. Furthermore in your exemption request it is written, that *“It is estimated that over 90% of indoor tanning lamps produced and used throughout Europe are manufactured with BSP (BaSi2O5 :Pb) phosphors containing 1% or less lead as an activator .”*. What is the case for the other 10% ?

It is important to clarify that there is no suntanning equipment that does not contain a lead activated phosphor lamp, as its specific UVB spectrum is needed to initiate the pigmentation process by melanin synthesis. There is one very specific type of suntanning equipment on the market, which is supplied in extremely small quantities, that in order to boost the pigmentation effect, has added pure UVA lamps besides the lead activated phosphor lamps. This is a pure UVA lamp with 368nm wavelength emission peak whose phosphor does not contain a lead activator.



7. Baron et al. (2022) recommended the expiry of the renewed exemption (Table 3) in 2026 for cat. 5, 8 and 9. Please explain why the exemption for cat. 11 should expire in 2029 and not as well in 2026.

The differentiated expiration dates are simply a matter of process. The current RoHS exemption 18b for categories 1-7 and 10 and for category 8 other than in vitro diagnostic medical devices and category 9 other than industrial monitoring and control instruments was expiring on 21 July 2021. The current exemption 18b for category 11 will only expire on 21 July 2024. As the RoHS process dictates us to apply 18 months before the expiration date we applied for categories 5,8,9, in 2020 and for category 11 in 2023, both time asking for a 5 year exemption validity.

If the expiry date of Category 11 would also be 2026, we fear that by the time there will be a delegated act for ex.18b for Category 11, we will be less than 2 years away from the expiration date. This means we would have to apply again immediately (18 months before expiry), when we just submitted all the recent information in the consultation for that act and there was no time for new industry developments.

**Please note that answers to these questions will be published as part of the evaluation of this exemption request. If your answers contain confidential information, please provide a version that can be made public along with a confidential version in which proprietary information is clearly marked.**

**We ask you to kindly provide the information in formats that allow copying text, figures and tables to be included into the review report.**

### 3. References

Baron et al. (2022): Study to assess requests for renewal of seven (-7-) exemptions 18(b), 18(b)-I, 24, 29, 32 and 34 of Annex III and exemption 34 of Annex IV of Directive 2011/65/EU (Pack 24) – Final Report Under the Framework Contract: Assistance to the Commission on technical, socio-economic and cost-benefit assessments related to the implementation and further development of EU waste legislation Author(s): Yifaat Baron, Carl-Otto Gensch, Andreas Köhler, Ran Liu, Clara Löw, Katja Moch, Oeko-Institut e. V. (Pack 24). retrieved from [https://rohs.exemptions.oeko.info/fileadmin/user\\_upload/RoHS\\_Pack\\_24/RoHS\\_Pack-24\\_final\\_16022022.pdf](https://rohs.exemptions.oeko.info/fileadmin/user_upload/RoHS_Pack_24/RoHS_Pack-24_final_16022022.pdf). [Accessed: 08.09.2023]

