



Brussels, **XXX**
D105447/01
[...] (2025) **XXX** draft

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

of XXX

amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards lead in ammunition and fishing tackle

(Text with EEA relevance)

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to 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/EC¹, and in particular Article 68(1) thereof,

Whereas:

- (1) Annex XVII to Regulation (EC) No 1907/2006 lays down restrictions on the manufacture, placing on the market and use of certain dangerous substances, mixtures and articles. Entry 63 of that Annex contains restrictions with respect to lead (CAS No 7439-92-1, EC No 231-100-4) and lead compounds, including a restriction on lead in gunshot in or around wetlands that was introduced by Commission Regulation (EU) 2021/57².
- (2) Lead is classified under Regulation (EC) No 1272/2008³ as very toxic to aquatic life, and toxic for reproduction, due to its adverse effects on fertility and the development of the nervous system of the foetus and the child, leading to permanent damage and intelligence quotient (IQ) loss. No safe lead-concentration threshold has been identified under which lead has no ill effects on human health. Lead is also associated with an increased risk of cardiovascular, kidney and central-nervous-system diseases

¹ OJ L 396, 30.12.2006, p. 1.

² Commission Regulation (EU) 2021/57 of 25 January 2021 amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards lead in gunshot in or around wetlands (OJ L 24, 26.1.2021, p. 19 ELI: <http://data.europa.eu/eli/reg/2021/57/oj>).

³ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006. OJ L 353 31.12.2008, p. 1. ELI: <http://data.europa.eu/eli/reg/2008/1272/oj>

in adults. Moreover, exposure to lead can have a range of acute and chronic toxicological effects, including death, in animals, particularly in birds⁴.

- (3) The Union and its Member States are Contracting Parties to the Convention on the Conservation of Migratory Species of Wild Animals⁵ (CMS). The Preventing Poisoning Working Group (PPWG) developed Guidelines to Prevent the Risk of Poisoning to Migratory Birds, which were adopted in 2014 by CMS Resolution 11.15. The Guidelines recommend both the phasing-out of the use of lead ammunition across all habitats and the phasing-out of the use of lead fishing weights in areas where migratory birds have been shown to be particularly at risk of lead poisoning.
- (4) On 16 July 2019, the Commission asked⁶ the European Chemicals Agency (the Agency), pursuant to Article 69(1) of Regulation (EC) No 1907/2006, to prepare a dossier (Annex XV dossier) to address the concerns regarding human health and the environment posed by: (i) lead and lead compounds in ammunition, including gunshot used in terrains other than wetlands and bullets used both in wetlands and in terrains other than wetlands; and (ii) lead and lead compounds in fishing tackle. The mandate did not extend to uses of ammunition for indoor shooting, or to uses by the police, the military and other security forces.
- (5) On 24 March 2021, the Agency published the Annex XV dossier⁷ in which it concluded that lead in ammunition and fishing tackle poses a risk to the environment and human health, in particular to vulnerable populations such as children that is not adequately controlled and that needs to be addressed on a Union-wide basis. With regard to the risk for the environment, the ingestion by birds and other animals of unrecovered lead ammunition, sinkers and lures from hunting, sports shooting and fishing activities results in the poisoning and frequent death of animals. Furthermore, lead accumulation at sports-shooting ranges can result in the leaching of lead-polluted surface water into local watercourses and may affect groundwater, potentially poisoning people, livestock and wildlife. The Agency also concluded that there are human health risks associated with consuming the meat of animals killed with lead ammunition, particularly for children aged 7 and younger, or when making lead ammunition or sinkers or lures at home.
- (6) The Agency estimated that, if the current releases of lead from shooting and fishing in the Union continue, approximately 876 000 tonnes of lead will be released into the environment over the next 20 years. This will place at least: (i) 135 million birds at risk of poisoning through ingestion of lead gunshot; (ii) 14 million birds at risk of poisoning through ingestion of lead via the consumption of food; and (iii) 7 million birds at risk of poisoning because of the ingestion of sinkers and lures. In addition, the Agency estimated that, each year, about 13.8 million individuals from hunters' families, including 1.1 million children aged 7 or younger, are vulnerable to lead exposure from game meat.
- (7) Against this background, the Agency proposed a restriction on the placing on the market and use of lead and lead compounds in a concentration of equal to or greater

⁴ The Committee for Risk Assessment (RAC) and the Committee for Socio-economic Analysis (SEAC), *Background document to the Opinion on the Annex XV dossier proposing restrictions on Lead in shot*, p. 3. <https://echa.europa.eu/documents/10162/28acf817-61a6-3ca6-4e85-a71ef0e07740>.

⁵ <https://www.cms.int/en/convention-text>.

⁶ https://echa.europa.eu/documents/10162/17233/rest_lead_ammunition_COM_request_en.pdf.

⁷ European Chemicals Agency, *Annex XV Restriction Report – Lead in outdoor shooting and fishing*, 24 March 2021, <https://echa.europa.eu/documents/10162/da9bf395-e6c3-b48e-396f-afc8dcef0b21>.

than 1% in sinkers and lures, fishing wires and gunshot. The Agency also proposed a restriction on the use of lead and lead compounds in a concentration of equal to or greater than 1% in projectiles other than gunshot (such as bullets and airgun pellets) and in drop-in sinkers. Moreover, the Agency proposed imposing information obligations on retailers of those products and labelling obligations on ammunition suppliers. The proposed restriction is intended to reduce lead emissions by approximately 630 000 tonnes over the 20 years following its introduction. This would be a reduction of 72% compared with a situation without the proposed restriction. The restriction would also avoid IQ loss in about 7 000 children per year, preventing a welfare loss of roughly EUR 70 million.

- (8) On the availability of alternatives, the Agency concluded that alternative ammunition for hunting (such as steel and bismuth gunshot, and copper and brass bullets): (i) are widely used; (ii) are technically feasible; (iii) are comparable in price with lead-based ammunition; and (iv) have better human health and environmental hazard and risk profiles than lead-based ammunition. On sports shooting with gunshot, the Agency found that it would be feasible to substitute steel for lead while maintaining a comparable performance, but that such a shift would require the approval of the relevant international sports-shooting federations. By contrast, alternatives for lead bullets and airgun pellets in sports shooting were not found to perform as well as lead. The Agency noted that lead is currently difficult to replace in a number of applications, such as small-calibre centrefire ammunition, rimfire ammunition, airgun ammunition, ammunition for muzzle-loading rifles, full metal jacket bullets and open tip match bullets. The Agency identified many alternatives to lead in fishing tackle (such as brass, concrete, pebbles, steel, tin, zinc and tungsten) but acknowledged that some of these alternatives, especially brass and zinc, also harm the environment. The Agency noted that alternatives to lead fishing wires are widely available in retail shops and that drop-in sinkers can be replaced with: (i) different techniques; and (ii) alternative sinkers that are not intended to be dropped off during use and therefore do not cause a direct and intentional release of lead to the environment.
- (9) The Agency recommended that the restrictions on fishing wires and drop-in sinkers should enter into application as soon as possible, given the availability of alternatives and the need to prevent the direct and intentional release of lead into the environment. By contrast, it recommended a range of periods in order to defer the entry into application of: (i) the restrictions on the other articles within the scope of the Annex XV dossier; and (ii) the information and labelling obligations. This would allow operators to adapt to the new rules and put in place the necessary risk management measures. Among the recommended transitional and deferred application periods, the Agency included (i) a five-year transitional period for the ban on placing on the market and use of gunshot for hunting; and (ii) deferred applications periods for the ban on the use for hunting of large-calibre and small-calibre projectiles other than gunshot of 18 months and five years respectively.
- (10) The Agency suggested a derogation from the ban on the use of lead bullets for sports shooting, on condition that specific risk management measures are implemented at sports shooting ranges and no agricultural activity takes place there. The Agency also did not support optional derogations from the ban on the placing on the market and the use of lead gunshot in sports shooting. The Agency supported a ban on that use of lead gunshot, but also included the derogations as optional and assessed their costs and benefits in the event that the Commission did not consider such a ban appropriate and required an assessment of the impacts of allowing the continued use of lead gunshot

for sports shooting under conditions that would minimise the identified risks to human health and the environment. The conditions for the optional derogation included: (i) the licensing of sports shooters by Member States; (ii) the authorising of sports-shooting ranges by Member States; (iii) frequent recovery of more than 90% of the lead gunshot discharged in the shooting range; (iv) the presence of strict measures for the protection of water from lead contamination, and remediation from such contamination; (v) a ban on any agricultural activity in the shooting range; (vi) records of compliance with conditions (iii) to (v); (vii) the labelling of cartridge packaging and of individual cartridges with warning statements; and (viii) a requirement on Member States to report to the Commission the number of licensed users, authorised shooting ranges and quantity of lead gunshot used on their territory. The Agency also considered a derogation for split shot that weighs 0.06 g or less and is placed on the market in spill-proof and child-resistant packaging, but eventually decided not to recommend it because of the residual risk to birds.

- (11) The Agency indicated that the restriction should not apply to indoor shooting, uses by police and the military, and uses for security purposes, as indicated in the Commission request to the Agency of 16 July 2019, as well as uses related to testing, development, research and investigation.
- (12) The Agency revised⁸ its initial proposal to take into account the comments received during the public consultation on the Annex XV dossier. In particular, it proposed an increase in the permissible concentration limit for lead in projectiles other than gunshot containing copper or copper alloys from less than 1% to less than 3% by weight. This was because alternatives made of brass may currently contain up to 3% lead and lowering the lead content to less than 1% would affect existing alternatives to lead ammunition. However, the Agency considered that that derogation should be reviewed before the entry into force of the restriction in order to determine whether copper and copper alloys with a lead concentration of less than 1% are available and their use in projectiles other than gunshot is feasible. It also included additional derogations for seal hunting with bullets and for hunting with full metal jacket bullets, under certain conditions. Moreover, the Agency updated the conditions for the derogation for the use of projectiles other than gunshot for sports shooting, so as to make it dependent on the presence of trap chambers or certain sand traps, without a mandatory lead-recovery rate, and on no agricultural activities taking place at the shooting range. The Agency also recommended that the appropriateness of a deferred application of five years for the ban on hunting with small-calibre lead bullets should be verified by means of a review before that five-year period ends.
- (13) Only a limited number of Member States have national provisions in place that prohibit the use of lead in hunting, outdoor shooting or fishing to reduce lead emissions and exposure. The Annex XV dossier demonstrated that Union-wide action to address the risk associated with lead and lead compounds in ammunition and fishing tackle is necessary in order to ensure a harmonised level of protection across the Union.
- (14) On 2 June 2022, the Agency's Committee for Risk Assessment (RAC) adopted an opinion pursuant to Article 70 of Regulation (EC) No 1907/2006 with respect to the

⁸ The Committee for Risk Assessment (RAC) and the Committee for Socio-economic Analysis (SEAC), *Background Document to the Opinion on the Annex XV dossier proposing restrictions on lead in outdoor shooting and fishing*, p. 20, <https://echa.europa.eu/documents/10162/14c4fceb-31b4-aea2-a9b5-75cdccf8013f>.

Annex XV dossier. In its opinion, RAC concurred with the Agency's conclusion that the use of lead in hunting, outdoor shooting and fishing poses a wide range of risks to both human health and the environment. RAC concluded that the restriction proposed by the Agency would be the most appropriate Union-wide measure to address the identified risks.

- (15) RAC strongly supported a shorter transitional period than the five years proposed by the Agency for the restriction on the use of gunshot in hunting. The reason was because the use of lead gunshot in wetlands is already regulated in the Union as a whole and because the shorter the transition period is, the less lead is released into the environment.
- (16) RAC did not support the optional derogations for the placing on the market of lead gunshot and for the use of lead gunshot for sports shooting. It considered that the enforcement of the proposed restriction, as well as the restriction on lead in gunshot in or around wetlands introduced by Commission Regulation (EU) 2021/57, would be greatly simplified if those optional derogations were not introduced. However, should those derogations be granted, RAC indicated that they would support the suggestion by the Agency's Committee for Socio-Economic Analysis (SEAC) that their scope should be limited to shot sizes between 1.9 and 2.6 mm.
- (17) RAC supported the derogation that would allow the use of copper or copper alloys with a lead content of up to 3% by weight in projectiles other than gunshot and, prior to the entry into force of the restriction, a review of whether such a derogation is necessary. It noted that, should the derogation be retained, then the labelling and information requirements should be applied to copper and copper alloy ammunition only when the lead content of the copper and copper alloy is equal or greater than 3% by weight.
- (18) RAC considered that the proposed derogations for the use of bullets for seal hunting and of full metal jacket bullets would not compromise the effectiveness of the restriction. The Agency had not proposed derogations for muzzle loaders and airguns for hunting, but RAC recognised that the use of both muzzle loaders and airguns in hunting is limited in volume and that their impact on overall risk reduction is therefore low. RAC did not support a derogation for split shot weighing 0.06 g or less, even if placed on the market in spill-proof and child-resistant packaging, because this would decrease the level of environmental protection provided by the restriction.
- (19) RAC supported the labelling and information requirements proposed by the Agency for lead ammunition and fishing tackle. However, RAC recommended avoiding confusion by increasing the lead concentration limit that would trigger the requirements from 0.3% to 1% by weight, so as to align it with the concentration limit that triggers the ban on placing on the market and use.
- (20) On 1 December 2022, RAC adopted a supplementary opinion, at the request of the Agency's Executive Director and in accordance with Article 77(3), point (c), of Regulation (EC) No 1907/2006⁹. This opinion reassessed RAC's evaluation of a specific dataset concerning the presence of lead in game meat and the human intake of game meat provided by the European Food Safety Authority. RAC reiterated its

⁹ The Committee for Risk Assessment (RAC), *Request by the Executive Director of ECHA under Article 77(3)(c) of REACH to prepare a supplementary opinion on the restriction dossier on lead in outdoor shooting and fishing*, 1 December 2022, <https://echa.europa.eu/documents/10162/e0a5c108-a7ed-dbd3-67ce-d00a6470d8ce>.

conclusion that there is a moderate to high risk from exposure to lead in game meat for children in hunter families but that risks for adults are likely to be low.

- (21) On 2 December 2022, SEAC adopted an opinion pursuant to Article 71(1) of Regulation (EC) No 1907/2006. It concluded that the proposed restriction would be the most appropriate Union-wide measure to address the identified risks as concluded by RAC, provided that the conditions are modified as proposed by SEAC. This takes into account the proportionality of the socio-economic benefits of the measure to its socio-economic costs.
- (22) SEAC supported RAC's view that, for the restriction on the use of lead gunshot in hunting, a transition period significantly shorter than the five years proposed by the Agency would be justified because there is insufficient evidence that increasing the production volumes of alternative ammunition to replace lead gunshot in hunting would require five years. The available information supported the argument that the volumes of lead gunshot used for hunting could be replaced sooner. Substantive and credible evidence to reach a conclusion on the specific length of the transition period was not available to SEAC, so it considered that the minimum period required to ensure the smooth transition to alternatives would be 18 months.
- (23) In order to make it easier to enforce the ban on the use of lead gunshot and bullets in hunting, SEAC recommended a ban on the carrying of lead ammunition while hunting or as part of going hunting.
- (24) In order to maximise the effectiveness of the proposed restriction, SEAC suggested limiting the optional derogations for lead gunshot for sports shooting to shot sizes between 1.9 and 2.6 mm because those are the shot sizes used for that activity.
- (25) SEAC, in line with the Agency and RAC, supported increasing the allowed concentration limit of lead from less than 1% to less than 3% by weight for copper and copper alloys in projectiles other than gunshot. SEAC also supported a review of that concentration limit before the entry into force of the restriction in order to assess whether setting a concentration limit lower than 1% would be feasible.
- (26) SEAC supported the Agency's proposal to grant a derogation for bullets for seal hunting and full metal jacket bullets, because those uses do not contribute significantly to the identified risks and no suitable alternatives are available. However, SEAC considered that it should be explicitly mentioned that the derogation for full metal jacket bullets would also cover non-expanding open tip match bullets. Regarding the ban on the use of lead ammunition in muzzle loaders or other historic firearms, SEAC noted that non-lead alternatives are not yet available for use in historic firearms. It nevertheless considered that a conclusion on whether a derogation for that use would be justified on the basis of cultural values (as had been suggested during the public consultation) would not be possible due to a lack of information on the socio-economic impacts of such a derogation.
- (27) SEAC could not reach a conclusion as to whether a derogation for the use of lead split shot weighing 0.06 g or less would be justified on socio-economic grounds. This was due to a lack of evidence on: (i) the availability and technical performance of alternatives; and (ii) the socio-economic impacts of a restriction on this use.
- (28) SEAC did not have sufficient information to reach a conclusion as to whether the cost of providing information at the point of sale (as proposed by the Agency and supported by RAC) would be fully justified, or whether other educational measures could more effectively influence purchasing behaviour. SEAC agreed with RAC that

the same concentration limit of 1% by weight that was being proposed for restricting the placing on the market and use of lead ammunition and fishing tackle should also apply to labelling and information requirements in order to avoid confusion and assist enforcement. SEAC also supported RAC's proposal to apply the labelling and information requirements to alternatives containing copper and copper alloys only when the lead content is equal to or greater than 3% by weight. SEAC considered that enforcement in the field would be more effective if individual lead bullets or gunshot cartridges were identified by means of markings or colour coding. However, it did not have sufficient information to conclude on the technical feasibility, the costs involved and the practicality of such markings or colour coding.

- (29) The Forum for Exchange of Information on Enforcement was consulted in accordance with Article 77(4), point (h), of Regulation (EC) No 1907/2006. Its recommendations were taken into account.
- (30) On 27 February 2023, the Agency submitted the opinions of RAC and SEAC¹⁰ to the Commission.
- (31) Taking into account the Annex XV dossier, the opinions of RAC and SEAC, the socio-economic impact and the availability of alternatives to lead ammunition and lead fishing tackle, the Commission considers that there is an unacceptable risk to the environment and human health stemming from the use of lead ammunition and lead fishing tackle, and that that risk needs to be addressed on a Union-wide basis. It is therefore appropriate to introduce a restriction on the placing on the market and use of such ammunition and fishing tackle.
- (32) The restriction should apply to ammunition and fishing tackle with a lead concentration equal to or greater than 1% by weight. That is the concentration limit laid down in the restriction in entry 63 of Annex XVII to Regulation (EC) No 1907/2006 for lead in gunshot in or around wetlands, because this is the concentration limit applied for the purposes of the 'non-toxic' gunshot-approval process in the United States of America in order to prevent a significant toxicity danger to migratory birds and other wildlife and to their habitats. Moreover, it is considered that the 1% concentration limit is sufficient to address the identified risk and can be readily achieved by producers of alternatives, given that some of those alternatives are likely to contain lead as an impurity.
- (33) The Commission took note of the RAC and SEAC opinions that the transitional period for the restriction on the use of lead gunshot in hunting should be shorter than the five years proposed by the Agency, but not shorter than 18 months. The Commission agrees with SEAC and RAC that sufficient production volumes of alternative ammunition to replace lead gunshot in hunting can be achieved sooner than five years. However, it has doubts as to whether a transitional period of 18 months would be sufficient for manufacturers to scale up their production of alternative ammunition. It therefore considers a three-year transitional period to be appropriate. The Commission also considers that the definition of gunshot should include both pellets and slugs for the purpose of this restriction because both can be discharged from a shotgun.

¹⁰ The Committee for Risk Assessment (RAC) and the Committee for Socio-economic Analysis (SEAC), *Opinion on an Annex XV dossier proposing restrictions on lead and its compounds*, 2 December 2022, <https://echa.europa.eu/documents/10162/2c82ef18-ce5d-4b4f-8ff0-002932154acc>.

- (34) The Commission concurs with SEAC that a ban on carrying lead gunshot and bullets is necessary in order to facilitate enforcement of the restriction on ammunition and fishing tackle containing a concentration of lead equal to or greater than 1% by weight.
- (35) The Commission considers that the ban on the use for hunting of lead centrefire bullets with calibres smaller than 5.6 mm, and of lead rimfire bullets of any calibre, should apply after a transitional period of 10 years (rather than the five years recommended by the Agency). This would allow more time for the development and testing of alternatives, which is currently lacking. However, alternatives to lead are already widely available for centrefire bullets with calibres larger than 5.6 mm. A deferred application period of 18 months (as recommended by RAC and SEAC) is therefore considered sufficient for operators and the public to adapt to the new rules. Furthermore, the Commission does not consider it justified to subject airgun pellets used for hunting or sports shooting to this restriction. Alternatives to lead airgun pellets are available only in low quantities, lack precision and cost up to four times more than lead airgun pellets. In addition, both the Agency and RAC agreed that a restriction on lead pellets used in airguns would only marginally reduce lead emissions. It would also not decrease risks to people because lead airgun pellets are mostly used to kill pests that are not eaten, so there is no Union-wide risk to humans from ingesting lead fragments from airgun pellets.
- (36) The Commission considers that the restriction on the placing on the market and use of fishing wires and drop-in sinkers should apply after a period of only six months, in order to rapidly prevent the direct and deliberate release of lead into the environment while still granting sufficient time to operators to adapt to the restriction.
- (37) The Commission agrees that a ban on the placing on the market and use of lead gunshot for sports shooting (as proposed by the Agency and supported by RAC and SEAC) would make enforcement easier. However, the Commission notes that such a ban could affect Member States' possibility to host the Olympic Games and other international competitions in which the use of lead is mandatory. It would also prevent athletes from training with lead shot in Member States. The Commission considers that a switch to alternative ammunition (such as steel shot) could be achieved through a long-term but time-limited derogation (15 years). The derogation should be limited to gunshot sizes between 1.9 mm and 2.6 mm, which are the only calibres used in competitions. The derogation should also depend on the presence, in the shooting range where the sports shooting takes place, of appropriate risk management measures, both to ensure lead containment and to limit the release of lead. The Commission does not consider it appropriate to include among the mandatory risk management measures some of the measures recommended by the Agency, such as: (i) the obligation to recover more than 90% of spent lead gunshot, as the small dimensions of the gunshot and the wide area across which the gunshot is discharged makes such a high recovery rate very difficult to achieve; or (ii) the mandatory licensing of users of sports shooting ranges by Member States, which it considers to be too bureaucratic and labour intensive. The Commission nevertheless considers it appropriate to include, as recommended by the Agency: (i) the obligation to contain, monitor and, where necessary, treat drainage water (including surface water run-off) from gunshot impact areas; and (ii) the prohibition of any agricultural use within a shooting range's boundary. The Commission also considers it appropriate to include additional risk management measures intended to ensure a level of protection comparable to that of the measures proposed by the Agency, namely the implementation of: (i) at least two specific lead-containment measures (walls, berms or banks, nets or shot curtains, and

surface covering); (ii) pH monitoring and, where necessary, treatment of gunshot-impact areas; (iii) limiting the use of lead gunshot to members of a sports shooting federation; and (iv) limiting the number of operators that can place the derogated gunshot calibres on the market. Outdoor sports shooting ranges should also recover spent lead shot at least once every three years and should report information concerning lead spent and recovered on their premises to the responsible Member State authorities, so that the effectiveness of the risk management measures to minimise lead emissions from sports shooting with lead gunshot can be monitored. The Commission also considers that a review of that derogation after 10 years is needed in order to evaluate the progress made towards achieving a Union-wide switch to alternatives in sports shooting.

- (38) The Commission considers it appropriate to include a derogation from the ban on the use of lead bullets for sports shooting, as suggested by the Agency. However, in order to ensure that a sufficient number of sports shooting ranges remain available to reservists who need to train with lead bullets as part of defence preparedness, the Commission considers that the derogation should not be conditional upon appropriate risk management measures being implemented at sports shooting ranges. The Commission also considers that a review of this derogation after 10 years is needed in order to evaluate whether it is still justified.
- (39) The Commission considers it appropriate to allow derogations from the restriction for lead ammunition fired from historic firearms (such as muzzle loaders or breechloading guns) and their modern replicas, because there is no suitable alternative ammunition that would not risk irreparably damaging them. In addition, RAC recognised that their use is limited in volume and that the impact of the derogation on overall risk reduction would therefore be low.
- (40) For bullets containing copper or copper alloys such as brass or bronze, and for fishing lures containing copper alloys, a concentration of lead less than 3% by weight should be allowed in order to avoid changes in machinery leading to large increases in production costs. That derogation is necessary in order to ensure the continuing production of copper and brass bullets, and brass lures, which are the most common alternatives to lead bullets and lures. The Commission does not consider feasible the Agency's suggestion that the derogation should be reviewed before the Regulation enters into force. A review may be considered in the future if evidence emerges that new copper alloys containing less than 1% lead by weight but keeping the necessary machinability have been developed.
- (41) The Commission agrees with the Agency and SEAC on the need to grant a derogation for ammunition used in seal hunting and for full metal jacket bullets. It considers it justified to explicitly include non-expanding open tip match bullets within the scope of the derogation because no alternative ammunitions are available for that specific hunting activity. The Commission also considers it appropriate to derogate lead bullets discharged during traditional rituals and other intangible cultural heritage events (such as marksmen festivals like the 'Vogelschießen'), and community festive events (such as funfairs), if they take place within a limited area in which lead recovery is performed. The derogation is justified because of the occasional nature of those events, the limited amount of ammunition used, the lead-recovery measures in place and the need to preserve the intangible cultural heritage they represent.
- (42) The Commission acknowledges the technical difficulties involved in finding alternatives to lead that are both sufficiently malleable and heavy enough to be used in

split shot. It therefore considers that a derogation for the use of lead in split shot weighing 0.06 g or less is justified if the split shot is placed on the market in spill-proof and child-resistant packaging in order to minimise accidental releases into the environment.

- (43) The Commission concurs with RAC and the Agency that a requirement for retailers to display information at physical and online points of sale, as well as on packaging, is justified in order to warn users of the risks of using lead ammunition, sinkers and lures. However, the statement to be placed on the packaging should be shorter than the one recommended by the Agency, in order to allow it to be placed on small packaging and to reduce the need to place it on fold-out labels, a leaflet or a tie-on tag. In addition, a marking indicating the presence of lead should be placed on individual lead bullets and lead shot cartridges in order to facilitate their identification and the enforcement of the restriction.
- (44) Member States should be asked to report the information received from outdoor sports-shooting ranges to the Agency every five years, so that the information on the effectiveness of the risk-management measures is available to the Commission and the other Member States. In order to facilitate the smooth and timely implementation of the restriction, Member States should also rapidly make available: (i) the instructions and procedure for authorising outdoor sports-shooting ranges for shooting with gunshot; and (ii) a list of those authorised outdoor sports-shooting ranges.
- (45) Some Member States have national provisions in place for the protection of the environment or human health that prohibit or restrict the use of lead in gunshot, bullets, lures, sinkers or fishing wires, and that are stricter than those laid down in this Regulation. Requiring those Member States to reduce their existing level of protection in order to comply with this Regulation might lead to a greater use of lead in those Member States. Such a result would not be compatible with the high level of protection required by Article 114(3) of the Treaty. Member States should therefore be allowed to maintain stricter provisions.
- (46) In light of the broader provisions on lead in gunshot introduced by this Regulation and in order to give manufacturers and users sufficient time to transition to alternative forms of ammunition, paragraphs 11 to 14 of entry 63 of Annex XVII to Regulation (EC) No 1907/2006 should apply until [*Publications Office: insert date of three years after entry into force*].
- (47) Regulation (EC) No 1907/2006 should therefore be amended accordingly.
- (48) The measures provided for in this Regulation are in accordance with the opinion of the Committee set up under Article 133 of Regulation (EC) No 1907/2006,

HAS ADOPTED THIS REGULATION:

Article 1

Annex XVII to Regulation (EC) No 1907/2006 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,

For the Commission
The President
Ursula VON DER LEYEN