

Explanatory Guide for the restriction of microplastics

TÜV Rheinland LGA Products - Information

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In October 2023, Regulation (EU) 2023/2055⁽¹⁾ on the restriction of microplastics came into force.

Following the publication of the regulation, there were many unanswered questions about its scope and applicability. Now the European Commission has finally published a corresponding "Explanatory Guide"⁽²⁾ for further explanation and clarification.

The guide consists of three parts:

- I. Narrative part
- II. Questions and answers
- III. Annex with decision trees and borderline cases

The guide is currently only available in English; a translation of the first part into all official European languages is planned for the third quarter of 2025. A translation of the second and third parts is not planned for the time being.

In addition, ECHA plans to continuously update the guidance document to address current needs arising from the practical implementation of the restrictions.

The document was prepared by the Commission's technical services in consultation with the European Chemicals Agency (ECHA) and the Member States. As such, it does not necessarily reflect the views of the European Commission and all Member States.

DIFFERENT INTERPRETATIONS WITHIN THE EU

According to the guidance, synthetic polymer microparticles (SPM) on the surface of articles are always to be considered as an integral part of an article and therefore do not fall within the scope of the restriction.

Austria, Belgium, Germany and the Netherlands take the view that any synthetic polymer microparticles (including glitter) must be permanently and therefore firmly attached to the surface of the article in order to fall outside the scope of the restriction. Only under these conditions can it be considered an integral part of the product.

IMPLEMENTATION IN GERMANY

In Germany, the federal states are responsible for monitoring in accordance with the federal principle. They are therefore also responsible for interpreting the restrictions and thus for deciding whether specific products fall within their scope of application. The Commission's guidelines are not legally binding.

A derivation of this assessment (presentation of conformity with the legal text) and an indication of how removable glitter is to be tested is not provided.

¹ <https://eur-lex.europa.eu/legal-content/DE/TXT/?uri=CELEX:32023R2055>

² https://single-market-economy.ec.europa.eu/sectors/chemicals/reach/restrictions/commission-regulation-eu-20232055-restriction-microplastics-intentionally-added-products_en

GUIDANCE ON MICROPLASTICS

The explanatory part (Part I) should be read together with the questions and answers (Q&A) in Part II and the annexes Part III of this explanatory guide.

PART I - NARRATIVE PART

The narrative part of the guidance document describes in simple terms the provisions and intended implementation of the restriction of "synthetic polymer microparticles" and includes the following points

1. How is it checked whether a product is affected by the registration? 78
2. Which substances fall within the scope of the restriction? Which polymers can be considered as synthetic polymer microparticles (SPM)?
3. Testing the degradability of polymers
4. Testing the solubility of polymers
5. Prohibition of placing on the market
6. Exemptions from the marketing ban
7. Sector-specific transitional periods for the application of the marketing ban
8. Information requirements, including instructions for use and disposal (IFUD)
9. Reporting on estimated emissions
10. Information to the competent authorities
11. Products already on the market at the time of entry into force

PART II - QUESTIONS AND ANSWERS

Deals with the questions submitted by stakeholders, which are divided into 19 sections relating to specific provisions of the restriction (e.g. prohibition of placing on the market, definitions, etc.) or products (e.g. glitter, cosmetic products, etc.):

Section 1 - General,

Section 2 - Definition of "synthetic polymer microparticles" and scope of restriction,

Section 3 - Paragraph 1 - Prohibition of placing on the market,

Section 4 - Paragraph 2 - Definitions,

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Section 16 - Infill material for synthetic sports surfaces - Specific questions,

Section 17 - Glitter - Specific questions,

Section 18 - Toys - Specific questions, and

Section 19 - Textiles - Specific questions

PART III - ANNEXES

Contains three annexes to help stakeholders identify SPM, understand their obligations and recognize borderline cases.

Annex 1 "Decision trees for the identification of SPM",

Annex 2 "Obligations arising from entry 78 at different levels of the supply chain"; and

Annex 3 "Borderline cases", contains 28 illustrative examples of specific products and indicates whether or not they fall within the scope of the restriction or whether exemptions apply.

OTHER ASPECTS

- For nail polish with glitter, exemption 5c) is not applicable because it is removed after use and the glitter is then released, Guideline II para. 7.4
- Microplastics that are permanently incorporated into a solid matrix during end use, e.g. glitter glue, glitter wall paint, gel pens with glitter, colored pencils (exception 5c).
The guideline states that companies must keep proof that their products actually meet the conditions for the exemption. It does not describe what this evidence should look like.
- Glitter powder for sprinkling on adhesive surfaces or applied adhesive (glitter powder in a set with adhesive) is not affected by the ban, as the purpose of this handicraft technique is to fix the glitter powder. (Exception 5c, see also Guideline II).
- If the microplastic changes during use so that it is no longer a microplastic, e.g. a modeling compound made of plastic particles that is melted in the oven so that the final shape is no longer a microplastic within the meaning of the regulation. e.g. iron-on beads (exception 5b)
- Even small products (< 5 mm) made of plastic, such as beads for stringing, confetti-like stars, snowflakes, etc. punched out of foil, etc. are not a mixture according to the guideline, but individual products.
- If exceptions 5 a-c) are used, the "Instructions For Use and Disposal" (IFUD) must be attached.

HINTS FOR ACTION

Please check which of your mixtures or products may contain microplastics. As you can see, there is considerable room for interpretation regarding the classification of products in various places.

For further information, please contact the Commission, ECHA, the Helpdesk, your competent authority or your lawyer.

The latter applies in particular with regard to the decision as to whether an article with glitter on the surface from which individual particles are emitted falls within the scope of the regulation.

Further information on current legal changes can also be found on our homepage at www.tuv.com or <https://www.tuv.com/regulations-and-standards/en/>

Further technical information can be obtained from

TÜV Rheinland LGA Products GmbH
Technical Competence Center Softlines
Dr. Ansgar Wennemer
Wennemer@de.tuv.com

Infobox: Further information on REACH services can also be found at <https://www.tuv.com/germany/de/reach.html>

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