**Detailed Explanation**

**accompanying draft COMMISSION REGULATION (EU) No …/... of XXX**

**amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council as regards lead in ammunition and fishing tackle**

Article 73(1) second subparagraph of the REACH Regulation requires the Commission to give a detailed explanation of the reasons why the draft amendment to Annex XVII diverges from the original proposal (‘Annex XV dossier’) of the dossier submitter or does not take the opinions from the European Chemicals Agency’s (‘the Agency’) scientific committees into account.

1. ***Divergences from the original Annex XV dossier proposal***

During the opinion-making process on the Annex XV dossier, the Agency’s scientific Committees – the Committee for Risk Assessment (‘RAC’) and the Committee for Socio-economic Analysis (‘SEAC’) – and the Forum for the Exchange of Information on Enforcement (‘the Forum’) recommended several changes to the restriction wording proposed in the Annex XV dossier. The Commission decided to include the following recommended changes in the draft amendment to Annex XVII:

* The transitional period for the ban on the use of lead gunshot in hunting is reduced from 5 years to 36 months; a shorter transitional period is justified considering that the use of lead gunshot in wetlands is already restricted in the whole EU;
* The derogation allowing the use and placing on the market for lead gunshot for sports shooting is limited to shot sizes used in sports shooting, i.e. sizes between 1.9 and 2.6 mm;
* A derogation is added allowing the use in bullets of copper or copper alloys containing a concentration of lead less than 3 % by weight;
* It is made clear that the derogation for full metal jacket bullets also covers non-expanding open tip match bullets;
* Labelling and information requirements for lead ammunition and fishing tackle are triggered by a lead concentration ≥ 1 % w/w (≥ 3 % w/w, for bullets containing copper or copper alloys), in line with the lead concentration that triggers the prohibition of use and/or placing on the market for those articles, thereby reducing the risk of confusion while not making a significant difference from a risk perspective;
* A ban on ‘carrying’ of lead ammunition in the field, as well as mandatory marking of individual lead bullets and shot cartridges, are added to facilitate the enforcement of the ban on the use of lead ammunition for hunting.

1. ***Divergences from the ECHA Committees’ opinions***

Furthermore, in drafting the proposed amendment to Annex XVII, the Commission adapted, or deviated from, the opinions of RAC and SEAC on a number of points:

* The ban on the use for hunting of lead centrefire bullets of calibres smaller than 5,6 mm, and of lead rimfire bullets of any calibre, is set to start applying after a transitional period of 10 years, rather than 5 years, to allow more time for the development and testing of alternatives, currently lacking.
* Airgun pellets are not included in the scope of the restriction because alternatives to lead airgun pellets are available in low quantities, lack precision and their price is up to four times higher than lead airgun pellets. In addition, a restriction on lead pellets used in airguns would contribute only marginally to the reduction of lead emissions and would not decrease risks to people.
* The restriction on the placing on the market and use of fishing wires and on drop-in sinkers is set to apply after a short transitional period of 6 months (rather than at entry into force), to rapidly prevent a direct and deliberate release of lead into the environment while still granting some time to operators to adapt to the restriction.
* A 15-year derogation for the use and placing on the market of lead gunshot for sport shooting is added, to allow EU Member States to continue hosting the Olympics and other international competitions where the use of lead is currently mandatory, and EU athletes to continue training with lead shot and maintain their competitiveness. The derogation, limited to gunshot sizes between 1.9 and 2.6 mm, is conditional to the presence of appropriate risk management measures to ensure lead containment and limit lead release in the shooting range where the sports shooting takes place. Such risk management measures need to be put in place 5 years after the entry into force. The required risk management measures differ from those proposed by the Agency (but still guarantee a high level of protection from lead emissions), as follows:
  1. The following proposed measures were not included:
     1. the obligation to recover more than 90 % of spent lead gunshot (considered unfeasible); and
     2. the mandatory licensing of users of sports- shooting ranges by Member States (considered too burdensome);
  2. The following new measures were included:
     1. at least two specific lead containment measures (walls, berms or banks, nets or shot curtains, and surface covering);
     2. pH monitoring and, where necessary, treatment of gunshot impact areas;
     3. recovery of spent lead gunshot at least every 3 years, without a minimum recovery rate;
     4. limiting the use of lead gunshot to members of a sports shooting federation; and
     5. limiting the operators that can place the derogated gunshot calibres on the market.

The obligation to contain, monitor and, where necessary, treat drainage water (including surface water run-off) from gunshot- impact areas is maintained as proposed, as well as the prohibition of any agricultural use within the shooting range boundary. The derogation is to be reviewed after 10 years to evaluate whether it is still needed.

* For outdoor sports shooting ranges where lead gunshot is used by applying the abovementioned derogation, a requirement is added for those shooting ranges to report information concerning lead gunshot spent and recovered on their premises to the Member State in which they are established, so that the effectiveness of the risk management measures to minimise lead emissions from sports shooting with lead gunshot can be monitored.
* A permanent derogation for using lead bullets in sports shooting ranges is proposed to allow the continued voluntary training of reservists and ensure defence preparedness. This derogation is not conditional to the installation of risk management measures in the shooting range, as the measures proposed by the Agency were considered too costly, in particular for smaller shooting ranges, and would risk decreasing the number of shooting ranges available for defence preparedness in some Member States. The derogation is to be reviewed after 10 years to evaluate whether it is still needed.
* A derogation is added for lead ammunition fired from historic firearms (e.g. muzzleloaders), because of lack of suitable alternatives and the limited lead releases from this use.
* It is not considered feasible to perform, before the entry into force of this amendment, a review to assess whether lead concentration limits lower than 1% are achievable in copper and copper alloys for use in bullets and lures. A review may be considered in the future, should evidence emerge that new copper alloys containing 1% lead or less that keep the necessary machinability have been developed.
* A derogation is included covering lead bullets discharged during traditional rituals, festive events and other intangible cultural heritage events, such as marksmen festivals, because of the occasional nature of these events, the limited amounts of ammunitions used during them, the lead recovery measures in place and the need to preserve the intangible cultural heritage they represent.
* For fishing lures containing copper alloys, a derogation is added allowing a concentration of lead less than 3% in the copper alloy to achieve adequate machinability during production and ensure the continued production of brass lures, which are the most common alternatives to lead lures.
* A derogation is added for the use of lead in split shot weighing 0.06 g or less and placed on the market in spill-proof and child-resistant packaging, due to the technical difficulties to find alternatives to lead that are at the same time sufficiently malleable and heavy to be used in split shot.
* The warning statement to be placed on ammunition packaging is set to be shorter than the one recommended by the Agency, to allow its placing on small packaging and reduce the need to place it on fold-out labels, leaflets, or tie-on tags.
* With a view to monitoring the effectiveness of the risk management measures and facilitating the implementation of the restriction, requirements are added for Member States to:
  1. report information on cumulated volumes of lead shot supplied and recovered on their territory during the reporting period to the Agency, every 5 years;
  2. make available:
     1. the instructions and procedure for authorising outdoor sports shooting ranges for shooting with gunshot; and
     2. a list of those authorised outdoor sports shooting ranges;
* A provision is included allowing Member States to keep national provisions prohibiting or restricting the use of lead in gunshot, bullets, lures, sinkers, or fishing wires for the protection of the environment or human health more strictly than by the provisions laid down in this Regulation. However, that provision does not extend to national provisions prohibiting or restricting the placing on the market of these products, as this could lead to a distortion of the Single Market.