

REACH E-NEWSLETTER

REACH NEWSLETTER

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SGS

WELCOME

Dear Reader,

The UK REACH e-newsletter brings you key issues relating to the EU REACH (Registration Evaluation and Restriction of Chemicals) regulation.

We bring information on proposed changes, confirmed changes and the possible effects of these changes from a manufacturing, retail and consumer perspective. Opinions from all concerned parties are reported so a full picture of the workings and effects of the regulation are shared.

The information in the following pages is sourced from European Chemicals Agency (ECHA) and Chemical Watch. Each of our articles are linked back to source for further reading.

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ECHA'S UPDATED GUIDANCE ON SVHCS IN ARTICLES FACES DELAY

The project to update ECHA's guidance on substances of very high concern (SVHCs) in articles is taking longer than initially foreseen and a final version will not be published until July or August 2017, the agency says.

The guidance was due in the early part of the year, but ECHA received nearly 700 comments from the Partner Expert Group (PEG) meeting in October 2016 and needs more time to go through them.

The guidance aims to align the requirements for SVHCs in articles with a European Court of Justice (ECJ) ruling in 2015. This said the 0.1% threshold for notifying SVHCs in articles applies to "each of the articles incorporated as a component of a complex product" rather than to the entire article.

The existing guidance, last updated in 2011, reflects the European Commission's previous view that the obligations only applied to entire articles.

A spokesman for ECHA said that while the practical implementation of the ruling would be a key element for the 2017 guidance update, it will also "restructure and reword the guidance in general, for improved readability".

Following suggestions from PEG members, it will contain simpler and more focused examples compared with the version sent to them in July 2016, the spokesman said. This will "streamline and simplify" the core text of the guidance to make it more accessible.

He added that the revised guidance aims to support the widest possible audience. And for topics that are very specific to a sector, other ways to support companies may be needed, such as by developing more specific guidance or examples for different industrial sectors.

The next consultation steps with the Forum for Enforcement and the competent authorities for REACH and CLP (Caracal) are now scheduled for February and for April or May, respectively.

ARTICLE 33

While the updated guidance may help clarify the interpretation of the term 'article', it is not clear to what extent the changes will allay industry concerns over the functioning of REACH Article 33.

This requires companies to reply within 45 days if asked by consumers or

customers about the presence – above 0.1% concentration – of SVHCs in their products.

In a letter to ECHA and the European Commission last October, Peter Faross, Secretary General of SME trade body Ueapme, said the ECJ had not taken into account the necessary practical efforts to be able to state whether a substance is present in an article or not. And therefore, he said, "Article 33 cannot be implemented and it seems its enforcement is not possible to a sufficient extent."

Ueapme has asked the European Commission to reassess Article 33 in its next REACH Review. The consultation period for this closed on 28 January.

ECHA says it is fully aware of Ueapme's concerns. However, it says its current task is to "concentrate on developing guidance to support duty holders to implement the current legal provisions, taking into account the ECJ ruling."

Article source: *ChemicalWatch.com*.

<https://chemicalwatch.com/52575/echas-updated-guidance-on-svhcs-in-articles-faces-delay>

AUTHORISATIONS GRANTED FOR VARIOUS USES OF FOUR SUBSTANCES

The European Commission has granted authorisations to eight companies for a total of ten uses of four substances. The review periods expire on the dates given in brackets:

- Trichloroethylene (EC 201-167-4) - Grupa Azoty S.A. (21 April 2028); Chimcomplex S.A. Borzesti (21 February 2019); Richard Geiss GmbH (two uses until 21 April 2028); Spolana a.s. (21 April 2020)
- Sodium chromate (EC No 231-889-5) - Dometic GmbH/Dometic Hűtőgépgyártó és Kereskedelmi Zrt. (one use until 31 December 2019

and one use until 21 September 2029)

- Sodium dichromate (EC 234-190-3) - Boliden Mineral AB (21 September 2024)
- Chromium trioxide (EC 215-607-8) - Grohe AG (one use until 21 September 2029 and one use until 21 September 2027)

Article source: *Eur-Lex.Europa.EU*.

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C.2017.048:TOC>



COMPLIANCE CHECKING SUBSTANCES

ECHA has updated the list of substances that might be chosen for compliance checks. There are 60 new substances.

Registrants of these substances are strongly advised to update their registration dossiers including the chemical safety report and tonnage band by 28 April 2017. By updating your dossier, you are making sure that ECHA checks the most up-to-date information.

ECHA has published this list since January 2015. This gives registrants the chance to update their dossiers before the compliance check starts. However, the list is indicative and non-exhaustive: ECHA can check the compliance of any dossier at any time and without prior notice.

Article source: *ECHA.Europa.eu*.

<https://echa.europa.eu/regulations/reach/evaluation/compliance-checks>



NEW ENTRY ADDED TO ANNEX XVII

On 10 February 2017, the EU published Regulation (EU) 2017/227 prohibiting and/or restricting decabromodiphenyl ether (Deca-BDE), also known as bis(pentabromophenyl) ether, as a substance, constituent of substances, in mixtures and articles. This new law creates a completely new entry 67 to Annex XVII of REACH.

The legislation has a number of exemptions, including but not limited to:

- Articles placed on the market before 2 March 2019
- Electrical and electronic equipment (EEE) falling under Rohs II (Directive 2011/65/EU)
- Spare parts for vehicles (Directive 2007/46/EC) or machineries (Directive 2006/42/EC) that are manufactured before 2 March 2019
- The manufacture of aircraft or their spare parts before 2 March 2027

Deca-BDE is widely used as a flame retardant in plastic and textile articles as well as in adhesives, coatings, inks and sealants. It has also been on the candidate list of substances of very high concern (SVHCs) for authorisation since December 2012.

The new law will be implemented in phases starting 2 March, 2019.

Major highlights of the new law are summarised in Table 1.

Article source: *ECHA.Europa.eu*.

<https://echa.europa.eu/documents/10162/bffac753-8ee1-47fa-86f9-5b7294a415e5>



REGULATION (EU) 2017/227			
ENTRY 67 TO ANNEX XVII OF REACH			
SUBSTANCE	SCOPE	REQUIREMENT	EFFECTIVE DATE
Deca-BDE	Substance on its own	Prohibited	2 March, 2019
	<ul style="list-style-type: none"> • Constituent of substances • Mixtures • Articles 	≤ 0.1%	

FORMAMIDE RESTRICTION IN FRANCE CONTINUES

In 2011, France restricted formamide in toy puzzle mats on an interim basis. This temporary restriction was extended in 2012, 2013, 2014 and 2015; each for a period of one year.

In December 2016, France published Decree of 22 December 2016, in the Official Gazette of the French Republic (*Journal officiel de la République Française*, JORF) to extend its interim restriction

of formamide in toy puzzle mats until 23 May, 2017. The limit of no more than 200 mg/kg remains unchanged. This restriction of formamide in toy puzzle mats will, in effect, be restricted by the European Toy Safety Directive from 24 May, 2017.

In November 2015, the European Union published Directive (EU) 2015/2115 to restrict formamide in foam-containing

toys for children under three and other toys that can be placed in the mouth. This amendment to Appendix C under Annex II of Directive 2009/48/EU, the so-called Toy Safety Directive (TSD), will become effective on 24 May, 2017. This piece of EU-wide legislation also allows formamide emission using defined methods as an alternative.

Highlights of the new French law are summarised in Table 2.



FRENCH DECREE OF 22 DECEMBER, 2016 PROHIBITING TOY PUZZLE MATS CONTAINING FORMAMIDE			
SUBSTANCE	SCOPE	REQUIREMENT	EFFECTIVE DATE
Formamide	Toy puzzle mats	□ 200 mg/kg	22 December, 2016 (until 23 May, 2017)
REMARK			
<ul style="list-style-type: none"> The TSD restricting formamide in foam-containing toys for children under three and other toys that can be placed in the mouth will become effective on 23 May, 2017. 			

HAVE YOU USED A SUBSTITUTE FOR A (POTENTIAL) SUBSTANCE OF VERY HIGH CONCERN?



If so, ECHA would be very interested in learning more about this substitution and what it has meant for your business. This information would assist in an ongoing European Commission study on the Impacts of REACH Authorisation, which is feeding into the REACH 2017 Review.

If you wish to assist in this study, please get in contact with the project manager

from the lead contractor (eftec); Mr Rohit Mistry via email at rohit@eftec.co.uk or call on +44(0)207 580 5383 if you are able to share any information concerning the substitution of a (potential) substance of very high concern.

Article source: *ECHA.Weekly.com*.

<http://fceg.espsrv.com/f/ml.aspx?kfg=tusyu1&x=pv&jj=u/di9=rttq/&c3-c=jbcp5fb.j0&x=pp&u1i9h68bbNCLM>

IMPROVE 'BURDENSOME' RESTRICTION PROCESS, NGOS TELL EU COMMISSION

The process of restricting chemicals of concern under REACH is "disproportionately burdensome" and leads to very few being added to Annex XVII – the restricted substances list – NGO ChemSec says.

Along with many other industry groups, NGOs and public sector bodies, ChemSec recently submitted comments to the

European Commission's consultation on the second review of REACH. The review's findings are expected later this year.

There is a 'problem of coherence' between how ECHA assesses restrictions and authorisations of substances, says ClientEarth. Statistics clearly show the agency has made restrictions "prohibitively difficult [by] requiring too

much information" from member states submitting proposals, it says.

ECHA's committees have rejected substance restriction proposals many times, while no applications for authorisation for certain uses of banned substances have been rejected, says ClientEarth, despite the latter's low quality.

And the restrictions ECHA does implement have narrower scope than those implemented by the regulatory system before REACH, the European Environmental Bureau (EEB) adds.

Current implementation procedures have created a number of bottlenecks and REACH processes are moving at a “glacial pace”, says Beuc, the European Consumer Organisation.

To resolve this, NGOs say the Commission should extend Article 68.2 (the so-called fast-track restriction process) to cover all substances fulfilling SVHC criteria.

It should also introduce an “automated trigger” for substances with known carcinogenic, mutagenic and reprotoxic (CMR), persistent, bioaccumulative and toxic (PBT), and endocrine disrupting properties, and other Article 57f properties (whether classified or not), to be included on the candidate list, Beuc says.

Article source: *ChemicalWatch.com*.

<https://chemicalwatch.com/53633/improve-burdensome-restriction-process-ngos-tell-eu-commission>

LAST CALL TO PRE-REGISTER YOUR LOW-VOLUME CHEMICALS

To benefit from the extended deadline for registering existing, low-volume chemicals by the last REACH registration deadline, you need to have pre-registered your substance with ECHA. If you manufacture or import a substance for the first time at or above 1 to 100 tonnes per year, and your substance is not a known carcinogen, mutagen or toxic to reproduction, you can still pre-register within six months of starting the activity, and at the latest by 31 May 2017 – one year before the deadline.

The third and last registration deadline for existing chemicals manufactured or imported in the EU/EEA from 1 to 100 tonnes a year is on 31 May 2018. If you want to benefit from this extended deadline for registering, you have to pre-register your substances. Many companies

have already done so by the original pre-registration deadline in December 2008.

If you have recently started to manufacture or import a non-CMR phase-in substance in amounts of 1 to 100 tonnes a year, you can pre-register within six months after starting the activity. However, the last possibility is on 31 May 2017. Pre-registration enables you to continue supplying your low-volume chemicals legally on the EU/EEA market until the registration deadline.

If you do not have a valid pre-registration or registration for your substance after 31 May 2017, you will need to submit an inquiry to ECHA and register your substance before you can manufacture or import it. The same applies also already



now, if you manufacture or import 100 tonnes or more of the chemical a year or one tonne or more a chemical that is classified as carcinogenic, mutagenic or toxic to reproduction (CMR).

Article source: *ECHA.Europa.eu*.

<https://echa.europa.eu/-/last-call-to-pre-register-your-low-volume-chemicals>

RECYCLED RUBBER INFILL CAUSES A VERY LOW LEVEL OF CONCERN



ECHA has evaluated the risk of substances in recycled rubber that is used on artificial sports pitches. Based on the evidence, ECHA has concluded that the concern for players on these pitches, including children, and for workers who install and maintain them is very low. ECHA will update its evaluation as and when new information becomes available.

Article source: *ECHA.Europa.eu* https://echa.europa.eu/documents/10162/13563/annex-xv_report_rubber_granules_en.pdf/dbcb4ee6-1c65-af35-7a18-f6ac1ac29fe4

RETAILERS MUST DECLARE SVHCS IN PRODUCTS, DANISH MINISTER SAYS

Retailers must be proactive in sourcing information from their suppliers about harmful substances in products, Denmark's Environment and Food Minister Esben Lunde Larsen says.

His call follows an inspection which found phthalates - including those on the REACH candidate list of SVHCs - in products at DIY stores, even though the manufacturers had claimed they did not contain SVHCs.

Article suppliers have a "clear obligation" to provide this kind of information, he says. "I encourage retailers to be proactive and contact their suppliers to make sure they have all the necessary information about candidate list substances in their products, so that they can pass on this information quickly to consumers on request."

Consumers can play an important role in making companies focus more on the need to have such information, he says, simply by asking for it. "The more we ask, the better companies will become at providing [that information], and the easier it will be for everyone," he says.

A recent study commissioned by the European Commission's DG Environment said many companies selling construction materials in the EU are not responding to REACH Article 33 requests.

The article requires companies to reply within 45 days, if asked by consumers or their customers about the presence - above 0.1% concentration - of SVHCs in their products.

Between August 2016 and January 2017, the Danish Consumer Council's 'Think Chemicals' programme asked manufacturers and retailers about the content of candidate list substances in tested products. Some companies took 105 working days to reply, it says.

Meanwhile, SME trade body Uepame has urged ECHA and the European Commission to look for ways to simplify notification of SVHCs in articles under REACH.

'TOUGHER CONTROLS' BY DENMARK

The Danish Consumer Council's 'Think Chemistry' inspection found 29 out of 58 products tested from DIY stores, such as footballs, garden hoses and other plastic consumer goods, had one or more phthalates, and 24 contained those from the candidate list.

The council reported four non-compliant products to the Environmental Protection Agency (EPA) for investigation.



Now new "controls" will be introduced in the construction market and Mr Larsen has instructed the EPA to carry out further inspections in the spring. They will target soft plastic products, with a "special focus" on products for children found in DIY stores, Mr Larsen says.

He will also meet with the relevant trade associations to discuss the issue of consumer information on the content of harmful chemicals in products.

Article source: *ChemicalWatch.com*.

<https://chemicalwatch.com/53573/retailers-must-declare-svhcs-in-products-danish-minister-says>

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