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Eight SVHCs Added to REACH Candidate List



The European Chemicals Agency (ECHA) has officially included eight new Substances of Very High Concern (SVHC) to the Candidate List on 15 December 2010. This closely followed the unanimous decision taken by the ECHA's Member State Committee (MSC) on these eight SVHCs (see Table A) earlier this month.

The ECHA also revealed that the three isomers of trichlorobenzene proposed for inclusion to the Candidate List earlier this year¹ cannot as yet be identified as "PBT-like" substances under Article 57 (f) of REACH and have thus not been added to the List. Based on the information available, the MSC concluded that there was not enough scientific evidence to definitively confirm that these trichlorobenzene isomers cause serious effects to human health or the environment in a way that fulfils the SVHC criteria set out in Article 57 of the REACH regulation. The isomers of trichlorobenzene were nominated for inclusion by Germany in August 2010.

IMMEDIATE EFFECTS ON BUSINESS

If their products contain any of these SVHCs at a concentration above 0.1% weight by weight

(w/w), EU suppliers (producers, importers and distributors) of articles are reminded that the following information must be communicated to recipients of these goods:

- as a minimum, the name of the SVHC as it appears on the official Candidate List; and
- any available information sufficient for the safe use of the article by the customer.

EU suppliers and retailers must also provide the same information free of charge to any consumer (such as the general public) within 45 days of receiving the request.

Suppliers of articles are also reminded that packaging materials are considered articles too, and that each packaging material is considered one article and separate from its contents. Communication and notification obligations also apply to packaging materials.

From 1 June 2011 onwards², in addition to the obligations described above, EU producers and importers of articles are also required to notify the ECHA if their products contain any SVHC on the Candidate List in a concentration above

¹ See "11 SVHCs Proposed for the REACH Candidate List" in Softlines E-ssentials Issue #16 at https://www.tuv-sud.in/APMKT/pdf/Softlines_E-ssentials_14_September_2010.pdf

² The complete list of SVHCs along with their dates of inclusion may be viewed at http://echa.europa.eu/chem_data/authorisation_process/candidate_list_table_en.asp

(continued from page 1)

0.1% (w/w) and in quantities totalling over one tonne per producer or importer per year. The notification deadlines are as follows:

- For substances included in the Candidate List before 1 December 2010, the notifications have to be submitted no later than 1 June 2011.
- For substances included in the Candidate List on or after 1 December 2010, the notifications have to be submitted no later than 6 months after the inclusion.

Businesses that can exclude exposure to humans or the environment during the use and disposal of their product are not required to submit a notification to the ECHA. They also need not submit a notification if a substance has already been registered for the same use.

WHAT BUSINESSES NEED TO DO

Now that the Candidate List has been officially released, businesses are advised to communicate the requirements associated with these eight SVHCs to their suppliers without delay. Businesses should therefore consult a TÜV SÜD expert as soon as possible to determine how to best go about ensuring that their products will comply to these and other REACH requirements. ■

TABLE A: SVHCs INCLUDED IN THE REACH CANDIDATE LIST

Substance	CAS Number	Possible applications
Cobalt(II) diacetate	71-48-7	Mainly used in the manufacture of catalysts or as a catalyst. Minor uses may include the manufacture of other chemicals including pigments, surface treatments, in alloys, dyes, rubber adhesion, and as a feed additive.
Cobalt(II) carbonate	513-79-1	Mainly used in the manufacture of catalysts. Minor uses are as a feed additive, in the manufacture of other chemicals including pigments, and as an adhesive in ground coat frit.
Cobalt(II) dinitrate	10141-05-6	Mainly used in the manufacture of other chemicals including catalysts. Minor applications may include surface treatment and in batteries.
Cobalt(II) sulphate	10124-43-3	Mainly used in the manufacture of other chemicals including pigments and possibly catalysts and driers. Minor applications include surface treatments (such as electroplating), corrosion prevention, decolourisation (in glass and pottery), in batteries, animal food supplements and soil fertilisers.
2-Ethoxyethanol	110-80-5	Mainly used in chemical manufacturing, but it is also used as a solvent or a laboratory chemical.
2-Methoxyethanol	109-86-4	Mainly used in chemical manufacturing, but it is also used as a solvent or a laboratory chemical.
Chromium trioxide	1333-82-0	Mainly used in metal finishing, such as electroplating (e.g. hard chrome and decorative plating), conversion coatings and brightening. It is also used as a fixing agent in waterborne wood preservatives. Minor uses are in the manufacture of pigments and paints, in catalyst and detergent manufacture, and as an oxidising agent.
Acids generated from chromium trioxide and their oligomers:		These acids and their oligomers are generated when chromium trioxide is dissolved in water. Consequently, their uses are the same as indicated for chromium trioxide (above).
• Chromic acid	7738-94-5	
• Dichromic acid	13530-68-2	
• Oligomers of chromic acid and dichromic acid	Not yet assigned	

Note: Substances on the Candidate List may be included in Annex XIV (the Authorisation List) and thus become subject to authorisation in the future.

CPSC Revises Retrospective Testing Terms for 16 CFR Parts 1632 and 1633

The Consumer Product Safety Commission (CPSC) has eased its requirements¹ on the "Limited Acceptance of Children's Product Certifications" regarding the testing of flammability of mattresses, mattress pads and/or mattress sets, thus reducing the burden and costs of testing for manufacturers.

The CPSC's original terms² for accepting a certificate of compliance under 16 CFR parts 1632 and/or 1633 (Standards for the Flammability of Mattresses and Mattress Pads and/or Mattress Sets) required products to be tested by accredited third party testing bodies on or after 18 August 2010. Both the International Sleep Products Association

(ISPA) and the Springs Creative Products Group (SCPG) objected to the announcement, arguing that since the test standards have not been revised since 2007, the new testing requirements were redundant. Instead, they proposed that the CPSC "grandfather" in Part 1632 and 1633 tests be conducted by accredited labs regardless of whether those tests occurred before or after 18 August 2010.

The CPSC considered the requests of ISPA and SCPG and decided to revise its retrospective testing requirements with some conditions. Instead of the original date of 18 August 2010, the CPSC will now accept testing that was done on or after 1 July 2007 provided that all the other requisite criteria are fulfilled. In addition, the third party testing body in question must have been ISO/IEC

17025-accredited at the time the testing was conducted, and the testing body's application to use the test methods in 16 CFR part 1632 and/or 1633 must have been accepted by the CPSC on or before 16 November 2010.

Companies whose product prototypes were tested to the 16 CFR parts 1632 and/or 1633 standards and passed after July 2007 by an ISO 17025 accredited lab are therefore exempt from any further testing requirements, provided its accreditation was accepted by the CPSC on or before 16 November, 2010. However, manufacturers or businesses whose products have not yet undergone testing to these standards will need to comply to the CPSC's terms as soon as possible as the requirements are effective for products manufactured on or after 16 November 2010. ■

¹ See the Federal Register Notice at <http://www.cpsc.gov/businfo/fr/11/tmattress.pdf>

² See Softlines E-ssentials Issue #14 at https://www.tuv-sud.in/APMKT/pdf/Softlines_E-ssentials_14_September_2010.pdf

CPSC Announces New Accreditation Requirements for Flammability Testing of Children's Sleepwear



Unit (GPU) of the final product as it is manufactured. The maximum number of garments in a GPU is 500 dozen (6,000 garments).

The standard's definition of children's sleepwear for the purpose of flammability testing includes any items intended to be worn primarily for sleeping or activities related to sleeping except:

- Diapers and underwear;
- Infant garments, as defined in 16 CFR 1615.1(c):
 - sized 9 months or under;
 - if one-piece garments, do not exceed 64.8 cm in length; if two-piece garments, have no piece exceeding 40 cm in length;
- Tight-fitting garments, as defined in 16 CFR 1615.1(o) and 1616.2(m).

The Consumer Product Safety Commission (CPSC) has announced new accreditation requirements¹ for the flammability testing of children's sleepwear sized 0 through 6X and 7 through 14.

The new requirements mean that children's sleepwear manufactured after 17 February 2011 must be tested by a CPSC-accredited third party laboratory according to the standards specified in 16 CFR 1615 (for sizes 0 through 6X) and 16 CFR 1616 (for sizes 7 through 14). The standards also apply to fabrics or related material intended or promoted for use in children's sleepwear and will supersede 16 CFR 1610 (Flammability of Clothing Textiles) and 1611 (Flammability of Vinyl Plastic Film) as they apply to children's sleepwear.

The regulation is effective immediately and lifts the stay of enforcement of CPSIA's third party testing and General Conformity Certificate (GCC) requirements for related children's products. As such, companies selling children's sleepwear products manufactured on or after 17 February 2011 will need to provide

a GCC to show that their goods meet these performance requirements.

TESTING PROCEDURES AND EXCEPTIONS

In order to comply with the new requirements, product samples must be tested by CPSC-accredited third party conformity assessment bodies at three different stages:

- 1. Fabric testing:** the fabrics that will be used in the garments are tested in their finished state and must meet the performance requirements after a minimum of 50 launderings (wash and dry) in either the fabric or finished garment state.
- 2. Prototype testing:** when the garment design is proposed, all seam types and all seams over 10 inches are tested. Trims are tested in the orientation that they will be used in the final product. Neckline, shoulder and sleeve trim are tested in the vertical configuration, which is the most severe testing scenario.
- 3. Production testing:** flammability tests are conducted on each Garment Production

WHAT BUSINESSES NEED TO DO

In making its announcement, the CPSC said that it will accept certificates of compliance based on testing performed on or after 19 November 2010 provided that:

- at the time of testing, the testing body concerned was ISO/IEC 17025-accredited for 16 CFR 1615 and 1616; and
- The third party conformity assessment body's application for testing using those methods is accepted by the CPSC on or before 18 January 2011.

The CPSC also said that it may extend the compliance deadline if there are not enough accredited testing laboratories to perform children's sleepwear flammability test by 17 February 2011.

Manufacturers are advised to speak to a TÜV SÜD expert to determine whether their products need to be retested under the new procedures or if their current compliance certificates are sufficient to satisfy the CPSC's requirements. ■

¹ See the Federal Register Notice at <http://www.cpsc.gov/businfo/frnotices/fr11/tpsleeppwear.pdf>

Canada Amends Lead Limit in Paint and Other Surface Coating Materials

The Surface Coating Materials Regulations of Canada's Hazardous Products Act has been amended¹ with new lead limits for several items, effectively reducing the permitted lead content of surface coatings from 600 mg/kg to 90 mg/kg. The regulation came into effect on 21 October 2010 and affects the following products:

- Furniture and other articles for children that have a surface coating material;
- Toys, equipment and other products for use by a child in learning or play that have a surface coating material; and
- Pencils and artists' brushes that have a surface coating material.

The old limit of 600 mg/kg was established by Health Canada when the regulation first came into force in 2005. The amendment aligns Canada's regulations with those of the United States, which reduced the lead in paint content under 16 CFR 1303 from 600 mg/kg to 90 mg/kg in August 2009. The amendment is also expected to simplify trade among industry players in both countries which now only need to follow a single set of guidelines.

COMPLIANCE AND ENFORCEMENT

Health Canada believes that almost all Canadian paint is compliant with the 90 mg/kg total lead limit². This is because 90% of Canadian paint sold come from members of the Canadian Paint and Coatings Association (CPCA), all of whom have voluntarily adopted the 90 mg/kg total lead in paint content earlier this year.

However, it is believed that compliance levels are lower for children's toys and

¹ See <http://www.gazette.gc.ca/rp-pr/p2/2010/2010-11-10/html/sor-dors225-eng.html>

² Read the official statement at <http://www.gazette.gc.ca/rp-pr/p2/2010/2010-11-10/html/sor-dors224-eng.html>

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furniture as well as pencils and artists' brushes. This is because most items like these sold in Canada are imported from overseas. Furthermore, although certificates of conformity to lead in paint content limits are mandatory in the U.S. under the Consumer Product Safety Improvement Act (CPSIA), Health Canada maintains that no such certification requirements are included under the Hazardous Products Act nor the proposed Canada Consumer Product Safety Act (CCPSA).

Nonetheless, Health Canada will carry out enforcement activities according to established procedures, including surprise visits to retail outlets and sampling products which are suspected of non-compliance. The samples will be tested according to publicly-available test methods used by Health Canada's Product Safety Laboratory.

NEXT STEPS FOR EXPORTERS TO CANADA

Determining the legal toxicity of products due to the presence of lead in surface materials requires both technical expertise and a keen understanding of regulations like Canada's Surface Coating Materials Regulations and the CPSIA. With our state-of-the-art facilities and advanced test laboratories, TÜV SÜD's knowledgeable experts can help ensure that your products comply to the new standards by determining the lead content of the paint used on your products before they are exported to Canada.

Our technical experts can also conduct tests to determine the lead content of substrates and metallic jewellery used in children's products and in adult fashion accessories. ■