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Mercury and Five Phenylmercury Substances Proposed for Restrictions under REACH Annex XVII



The European Chemicals Agency (ECHA) has announced that mercury and 5 phenylmercury substances have been proposed for restrictions under REACH Annex XVII¹. The proposal for mercury comes after a study by the ECHA to find alternatives to mercury-containing measuring devices, while the five phenylmercury restrictions were proposed by Norway.

The proposal period is between 24 September 2010 and 24 March 2011. However, the ECHA would like to receive all comments by 24 December 2010 in order to facilitate the process.

PHENYLMERCURY IN POLYURETHANE

Phenylmercury compounds are used as catalysts in the production of polyurethane and may be found in gaskets and seals, encapsulants for electronic assemblies, film and television props, vibration dampers, clear polyurethane on labels, water resistant

coatings (leather, textile, fibre, computer parts) and concrete sealants, boat repair and repair on conveyor belts, rollers on swivel chairs and roller skates and shoe soles.

While phenylmercury compounds themselves are not considered as PBT or vPvB substances, they can nonetheless degrade into inorganic mercury and elemental mercury, which can then be transformed to methylmercury. In its report² to the ECHA, the Norwegian Climate and Pollution Agency concluded that methylmercury is a PBT-like substance (persistent, bioaccumulative, toxic chemical) and that the source of its emissions should therefore be restricted.

It is estimated that Europe uses about 36 – 70 tonnes of phenylmercury compounds as catalysts in the production of polyurethane per year, and that these compounds were responsible for around 4% (7 tonnes) of the total European mercury emissions in 2005.

¹ Read the ECHA's statement at http://echa.europa.eu/doc/press/pr_10_18_restrictions_mercury_20100924_en.pdf

² Read the complete report from http://echa.europa.eu/doc/restrictions/annex_xv_restriction_report_phenylmercury_compounds_en.pdf

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The five phenylmercury substances proposed for the restriction are:

- phenylmercury acetate (CAS 62-38-4)
- phenylmercury propionate (CAS 103-27-5)
- phenylmercury 2-ethylhexanoate (CAS 13302-00-6)
- phenylmercuric octanoate (CAS 13864-38-5)
- phenylmercury neodecanoate (CAS 26545-49-3)

Of these, only phenylmercury neodecanoate is used in significant amounts in the EU today. The concentration of residual phenylmercury neodecanoate in final products range from

0.1-0.6%. In the restriction report Norway suggests that these substances should not be manufactured, placed on the market or used as a substance or in mixtures in concentrations above 0.01% weight-by-weight. The same concentration limit would apply for the substances in articles or homogenous parts of articles. To allow time for the replacement of the substances by alternatives, Norway proposes that the restriction take effect five years after entry into force of the restriction, which is estimated to be sometime in 2017.

WHAT TÜV SÜD'S CUSTOMERS NEED TO DO

If the proposed restriction enters into force, producers of polyurethane products will need to replace phenylmercury substances with mercury-free alternatives, while importers

of articles will also need to ensure that their products do not contain phenylmercury catalysts. The five-year transition timeframe was proposed because it is feared that substituting these substances in a shorter period may cause substantial technical difficulties. These may in turn lead to greater costs and potentially unforeseen consequences in the end uses of polyurethane systems.

Finding suitable alternatives for phenylmercury is therefore expected to be a challenge for producers of polyurethane products that rely on these substances as catalysts. With our advanced ISO/IEC 17025-accredited laboratories, TÜV SÜD's technical experts have the necessary expertise and facilities to help detect the presence of these and other chemicals under REACH regulations. ■

Confidentiality of IUPAC Names in the C&L Inventory

The European Chemicals Agency (ECHA) has released guidelines for companies who wish to keep the IUPAC (International Union of Pure and Applied Chemistry) names of the substances they use confidential in the Classification and Labelling Inventory. Businesses concerned about revealing trade secrets when registering their substances therefore need not hesitate to do so as the International Uniform Chemical Information Database¹ tool (IUCLID 5) now allows notifiers to use alternative names for public disclosure.

An IUPAC name may be considered confidential and thus not be made public if the substance is:

- a non-phase-in substance (less than one tonne); and/or
- a substance only used as:
 - an intermediate and/or
 - in scientific research and development and/or
 - in product and process oriented research and development (PPORD)

The notifier has to justify why the IUPAC name should be kept confidential including a clear

¹ Members can download the most recent release of IUCLID tool from <http://iuclid.eu/>



declaration that the substance is a non-phase-in substance, a chemical intermediate, a R&D or a PPORD substance. Alternative names should be derived using the methodology from Directive 1999/45/EC.

In addition, businesses are advised to use the IUCLID 5 Dissemination plug-in² to simulate which information from their registration dossiers will be made available over the internet. In this way, notifiers can verify the information that will be published about their substances and prepare publicly-available

² Download the plug-in from <http://iuclid.eu/index.php?fuseaction=home.news&type=public&id=37>

notifications without revealing business-confidential information. The IUCLID 5 Dissemination plugin can be used only with REACH registration dossiers.

NEXT STEPS FOR MANUFACTURERS AND BUSINESSES IN THE EU

The ECHA has made all the necessary tools for notification available and urges businesses to start submitting their notifications now rather than waiting for later. Notifications may be submitted in bulk with an XML file, via the IUCLID 5 application or manually in the REACH-IT system. ■

U.S. DoD Proposes to Adopt Low Price Technically Acceptable (LPTA) Procurement Procedures

The U.S. Department of Defence (DoD) has announced its decision to change Defence Logistics Agency (DLA) Troop Support's acquisition procedures for textiles and apparel products from the current "Best Value" mechanism to a Low Price Technically Acceptable (LPTA) and/or Reverse Auction systems.

Under the Berry Amendment, the DoD is required to purchase items such as textiles, apparel, footwear and their components from 100% American sources. The DoD's announcement has thus caused a great deal of concern among U.S. manufacturers of these goods, most of which employ rigorous testing procedures in certified laboratories that check the integrity of their products. Such quality control measures involve additional cost, but if the DoD goes ahead with its decision, manufacturers may no longer be able to employ such thorough quality control checks.

THE AAFA'S RESPONSE

The American Apparel & Footwear Association (AAFA) has expressed its concern for the possible ramifications of the DoD's decision, saying that it removes all incentive for a manufacturer to continue its practice of



ensuring the highest quality goods. Once a contractor can meet the minimum required standards, a procurement contract will be awarded to the bidder with the lowest price.

In a letter¹ to Brigadier General Scott Chambers, Commander of the Defense Logistics Agency (DLA) Troop Support, AAFA President and CEO Kevin M. Burke said that

¹ Read the letter in full at <https://www.apparelfootwear.org/UserFiles/File/Letters/2010/081910chambers.pdf>

"the adoption of LPTA and Reverse Auctioning will essentially remove all consideration of past performance and other criteria which is now part of Best Value practices." If effected, the new procurement policy may also have a knock-on effect throughout the U.S. textile and apparel industry as it is likely to squeeze operating margins and force the industry to consolidate until competition has been reduced to a few major industry players. ■

AAFA Opposes CPSC's Third Party Flammability Testing Proposal

The American Apparel and Footwear Association has expressed its formal opposition to the Consumer Product Safety Commission's (CPSC) proposal to impose third party flammability testing requirements for certain children's products.

Currently, manufacturers can self-declare their compliance with the standards of the Flammable Fabrics Act (FFA) and issue their own certificates, but the CPSC has proposed to make third party flammability testing a mandatory requirement. The AAFA believes that the testing requirements within the

16 CFR 1610 regulations (Standard for the Flammability of Clothing Textiles) are sufficient for industry to demonstrate compliance with that standard. In response to the CPSC's call for comments, the Association argued that if the proposal does come into effect, manufacturers would have to ensure legal compliance with three different sets of regulations: 16 CFR 1610, 16 CFR 1107 (Testing and Labelling Pertaining to Product Certification) and, if the manufacturer is using component testing, 16 CFR 1109 (Conditions and Requirements for Testing Component Parts of Consumer Products).

In his letter to the CPSC, AAFA President and CEO Kevin M. Burke has asked¹ that the Commission hold a public meeting to allow industry the opportunity to discuss how standards may be improved and to determine whether third party testing for children's products is, in fact, necessary. The CPSC has not yet decided whether or not to grant the AAFA's request.

The deadline for comments on the CPSC's proposal was 17 September 2010. ■

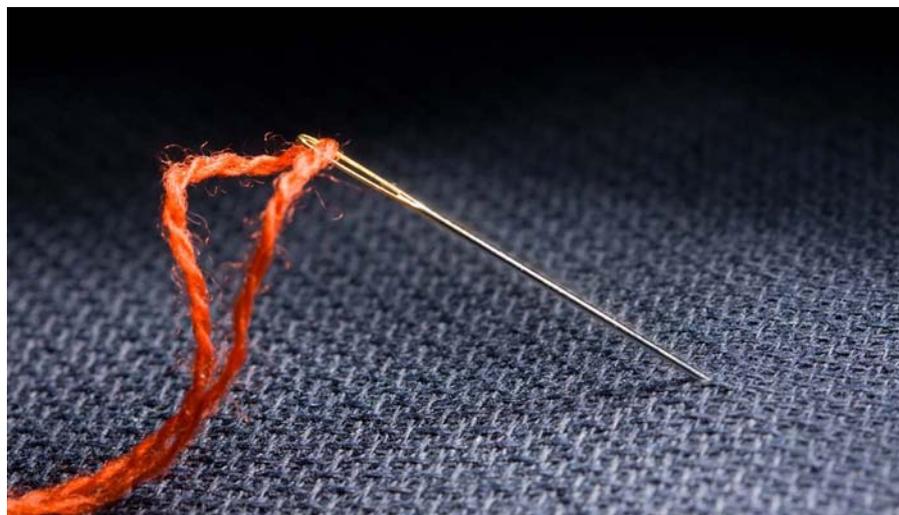
¹ Read the AAFA's response to the CPSC in full at <https://www.apparelfootwear.org/userfiles/file/testimony-comments/2010/091710cpscffa.pdf>

EU Proposes Double System for Textile Marking

The European Parliament has voted 528 votes to 18 (with 108 abstentions) to explore ways of bringing together all legislations related to textile names and labelling in an effort to simplify the existing regulatory environment for the labelling of textile products¹. The proposal seeks to streamline the adoption of new fibre names and encourage innovation in the textile industry.

The labelling scheme will make it necessary for textile producers to specify the fibre composition of textile products by uniform methods of quantitative analysis. Labels should also state if any of the textile parts are of animal origin. In addition, a double system for origin marking has been proposed that makes new origin markings rules obligatory for imported products, while textile products manufactured within the European Union may

¹ View the complete procedure records at <http://www.europarl.europa.eu/oeil/FindByProcnum.do?lang=2&procnum=COD/2009/0006>



only be required to carry origin markings on a voluntary basis.

Under the proposal, a product shall be deemed to originate in the country where it underwent at least two of the following stages of

manufacture: spinning, weaving, finishing or making-up. The product may not be described on the labelling as “entirely” originating in a country unless it underwent all these stages of manufacture in that country without any part of the product manufactured elsewhere. ■

California Moves One Step Closer to Green Chemistry Regulation

California's Department of Toxic Substances (DTSC) has released its official Safer Consumer Product Alternatives regulation¹ for public review. It describes the proposed process for identifying and prioritising chemicals of concern, the requirements for compliance and notifications as well as the process for performing assessments for alternatives.

The proposed regulation includes changes to the 23 June 2010 draft and reflects feedback received from all stakeholders since then. It is available for public comment until 1 November 2010 and is expected to go into effect on 1 January 2011. ■

¹ Download the draft from <http://www.dtsc.ca.gov/PollutionPrevention/GreenChemistryInitiative/upload/Safer-Product-Alternative-Regulations-6-23-10.pdf>



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