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European Union Decides to Ban Six Substances of High Concern

On February 17, 2011, the European Union (EU) announced that it will ban six substances of very high concern in three to five years unless companies seeking to continue their use obtain authorization under the EU's Registration, Evaluation, Authorization, and Restriction of Chemicals (REACH) regulation. Under REACH, member states or the European Chemical Agency (ECHA) can nominate substances that are identified as carcinogenic, mutagenic, toxic for reproduction, or persistent in the environment and/or that bioaccumulate in organisms (in other words, substances of very high concern) for inclusion on a candidate list of substances that may require authorization for continued use. The European Commission makes the decision to enter the substances on the Authorization List, which appears as Annex XIV of REACH. The following six substances are the first six to be entered:

Substance	CAS No./EC No.	Reason for Inclusion	Sunset Date
5-tert-butyl-2,4,6-trinitro-m-xylene (musk xylene)	81-15-2/201-329-4	Very persistent, very bioaccumulative	August 21, 2014
4,4'-Diaminodiphenylmethane (MDA)	101-77-9/202-974-4	Carcinogenic	August 21, 2014
Hexabromocyclododecane (HBCDD) (alpha-hexabromocyclododecane CAS No. 134237-50-6; beta-hexabromocyclododecane CAS No. 134237-51-7; gamma-hexabromocyclododecane CAS No. 134237-52-8)	3194-55-6 25637-994/221-695-9, 247-148-4	Persistent, bioaccumulative, and toxic	August 21, 2015
Bis (2-ethylhexyl) phthalate (DEHP)	117-81-7/204-211-0	Toxic for reproduction	February 21, 2015
Benzyl butyl phthalate (BBP)	85-68-7/201-622-7	Toxic for reproduction	February 21, 2015
Dibutyl phthalate (DBP)	84-74-2/201-557-4	Toxic for reproduction	February 21, 2015

The use of some of these substances is exempted from the authorization requirement for certain medical packaging applications. See the [ECHA authorization list](#). Forty substances remain on the candidate list.

A manufacturer, importer, or downstream user may continue to market these substances only if the company obtains authorization for a specific use. Applications for authorization must be made by

February 21, 2013, for substances scheduled for phase-out or "sunset" by August 21, 2014; by February 21, 2014, for substances scheduled to sunset by August 21, 2015; and by August 21 2013, for substances to sunset by February 21, 2015. ECHA's Risk Assessment and Socio Economic Committees will review the applications, and the European Commission will take the final decision on authorization. According to REACH, the European Commission shall grant an authorization for use if, taking into consideration the Risk Assessment Committee's opinion, the risk to human health or the environment from the substance's use is adequately controlled and documented in the chemical safety report. Authorization applications must include an analysis of alternative substances and may include a socioeconomic impact analysis.

FOR MORE INFORMATION

Robinson & Cole LLP's Environmental and Utilities Practice Group is assisting a number of clients with existing and emerging rules regulating the manufacture, use, remediation, and disposal of chemicals and chemical wastes. For questions regarding all aspects of REACH, TSCA and the regulation of chemicals, please contact one of the following attorneys:

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