



→ July 2006

Reporting on Restricted Substance Legislation for Apparel, Footwear and Sports Equipment.

Breaking News on Eco-Track

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EU Phthalate Directive - Guidance issued on "products that can be placed in the mouth"

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Germany Implements Phthalate Requirements

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Thailand notifies WTO of intention to set requirements for Fabrics - safety from harmful dyestuffs and chemical substances

More information is available at www.eco-track.com

REPORTING ON RESTRICTED SUBSTANCE LEGISLATION FOR APPAREL,
FOOTWEAR AND SPORTS EQUIPMENT

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→ Welcome to ECO-TRACK News



This chapter describes new developments in the field of restricted substances in apparel. The most striking new developments have already been reported in Regulatory alerts. On some issues additional information could be provided. On other issues we expect to be able to provide more information during the conference call.

→ New Developments

1. European Union

EU Phthalates Requirements

In December 2005 an amendment of Directive 76/769/EEC was published that lays down restrictions on phthalates in toys and childcare articles.

The 25 EU Member States need to transpose the requirements into national legislation by July 16th 2006. They should apply the requirements as of January 16th 2007.

The ECO-TRACK team will gather in the upcoming quarter the transpositions of the different Member States. So far it is known that Germany has already transposed the legislation into national law. See paragraph 1.1.3.

The Commission provided guidance on how "products that can be taken into the mouth" should be interpreted. Section 1.1.2 provides a brief outline and a direct link to the information provided.

Guidance on interpretation of the concept "can be taken into the mouth"

On June 27th the European Commission issued a Guidance Document on the interpretation of the concept "which can be placed in the mouth" as laid down in the Annex to the 22nd amendment of Council Directive 76/769/EEC.

The Guidance Document is aimed at providing some criteria and examples to help identifying those toys and childcare articles or parts of toys and childcare articles which can and those which can not be placed in the mouth by children. It is specifically mentioned that it does not address the likelihood that a toy or childcare article will be mouthed.

The guidance document does not provide a legally binding interpretation of the Directive. The document is considered to be of primary interest to those involved in giving effect to the Directive from a technical and administrative standpoint. It is noted that a final assessment has to be made on a case-by-case basis, taking into account the criteria established by the Guidance Document.

→ New Developments

European Union Continued

Definition of toys:

As explained in previous information disseminated by the ECO-TRACK team, the definition of toys of Directive 88/378/EEC on the Safety of Toys also applies to Directive 2005/84/EC (amending 76/769/EEC on phthalates in toys and childcare articles).

As ECO-TRACK subscribers may remember, child care articles are defined as “any product intended to facilitate sleep, relaxation, hygiene, the feeding of children or sucking on the part of children”.

Scope of the Directive in relation to textile articles (Example: pyjamas and sleeping bags)

The document furthermore explains: “The main purpose of pyjamas is to dress children when sleeping and not to facilitate sleep. Pyjamas should therefore be regarded as textiles and, like other textiles do not fall under the scope of the Directive. Sleeping bags are designed to facilitate sleep and should therefore fall under the Directive.

→ New Developments

European Union Continued**Articles that can and can not be placed in the mouth**

The document further elaborates when the Commission considers that a child care article can be taken into the mouth. It states: "Placing in the mouth" means that the article or parts of an article can actually be brought to the mouth and kept in the mouth by children so that it can be sucked and chewed. If the object can just be licked, it can not be regarded as "placed in the mouth".

It basically depends on (1) size, (2) accessibility of parts, (3) handheld vs. not handheld toys, (4) whether inflatable articles should be considered empty or full. The document explains these 4 issues and provides illustrative examples.

For these and other details, please refer to the Guidance Document.

- Guidance Document:
http://ec.europa.eu/enterprise/newsroom/cf/document.cfm?action=display&doc_id=165
- Toy Safety Directive:
<http://eur-lex.europa.eu/LexUriServ/site/en/consleg/1988/L/01988L0378-19930802-en.pdf>
- Phthalate Directive:
<http://eur-lex.europa.eu/LexUriServ/site/en/consleg/2005/L/02005L0084-20060116-en.pdf>

→ New Developments

European Union Continued

Germany Implements Phthalate Requirements

As indicated in the Alert of June 27th Germany transposed the new phthalate requirements into its national law by means of the Second Regulation amending the Ordinance on Commodities (Bedarfsgegenständeverordnung) and the Cosmetics Regulation (30 May 2006), Published June 9 2006 (BGBl 2006, Part 1, nr. 26).

Read more:

- ECO-TRACK alert:
<http://www.eco-track.com/r/987>
- Relevant amendment to German law:
<http://217.160.60.235/BGBl/bgbl1f/bgbl106s1279.pdf>

→ New Developments

European Union Continued

EU - Regulation fluorinated greenhouse gases published

The final version of the Regulation on Fluorinated greenhouse gases has been published on June 14th 2006. It is entitled "REGULATION (EC) No 842/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 May 2006 on certain fluorinated greenhouse gases".

As described in previous alerts, the objective of this Regulation is to prevent and reduce emissions of the fluorinated gases covered by the Kyoto Protocol. Article 9 of the Regulation prohibits placing on the market of certain applications of sulphur hexafluoride (SF₆), perfluorocarbons (PFCs) and hydrofluorocarbons (HFCs).

Within the ECO-TRACK product scope footwear is affected: Placing on the market of footwear containing or whose functioning relies upon fluorinated greenhouse gases is prohibited from 4 July 2006 (see Annex II).

The Regulation enters into force 20 days following its publication in the Official Journal and will apply from 4th of July 2007, apart from the prohibition related to footwear which applies from the 4th July 2006.

Please note that Regulations are directly applicable and binding in all EU Member States without the need for any national implementing legislation.

Read more:

REGULATION (EC) No 842/2006:

http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_161/l_16120060614en00010011.pdf

→ New Developments

European Union Continued

EU Indirectly Banned decaBDE in Electronics

Since several of the ECO-TRACK subscribers also have some electronic items in their collections, we would like to point out that in the end of June it became clear that decaBDE is indirectly banned under the RoHS Directive (Directive 2002/95/EC).

It appeared that commercial formulations of decaBDE contained small levels of nonaBDE which is banned as of July 1, 2006 under the RoHS Directive. The exemption from the ban for decaBDE itself remains unchanged, but if decaBDE is used at the levels currently found in electronic equipment, the amount of nonaBDE within it would mean that new electronic equipment containing decaBDE would breach the Directive.

Read more:

Letter of the Commission on nonaBDE in relation to decaBDE
[letter_decaBDE.pdf](#)

→ New Developments

2. Sweden Update

Sweden intends to Proceed with Ban on DecaBDE

As reported in the alert of February 3, 2006 Sweden intended to ban the use of decaBDE in applications other than electronics and vehicles.

In the previous newsletter (April 2006) it was explained that France, the UK and the European Commission issued comments on the Swedish notification.

Personal contact with the Swedish authorities has learnt that Sweden is planning to proceed with the proposal to ban decaBDE. As part of the notification procedure Sweden has written a reply on the comments presented.

Among the comments presented, comments were made on the "risk" of decaBDE to humans and the environment and also on the availability of alternatives.

Without getting into detail, some of the issues addressed in the reply are the following:

- Sweden indicates that it interprets the risk assessments for decaBDE which were drawn up by France and the UK in a different way. It considers that the risk assessment shows that there is a risk of the substance having negative effects on humans and the environment and that it is therefore both necessary and justified under Article 30 of the EC Treaty to prevent further entry of the substance into the Swedish environment. It furthermore states that this is in line with the interpretation of the Scientific Committee on Health and Environmental Risks, who according to Sweden, recommended that steps be taken to reduce the risks in relation to decaBDE.
- Sweden furthermore outlines that there are alternatives to the use of decaBDE as a flame retardant in textiles. This statement is based on a study conducted by IFP Research and for other applications on the experience of the Swedish Chemicals Inspectorate from a supervision project on flame retardants which was carried out in 2003.

→ New Developments

Sweden Continued

Sweden concludes its letter with the following paragraph "For the reasons stated above, the Swedish Government does not share the view of the Commission and of the United Kingdom that the notified draft new Order contravenes Article 28 of the EC Treaty. The communications from the Commission, the United Kingdom and France therefore do not cause any change in Sweden's opinion."

In conclusion: Sweden intends to proceed with the proposal to restrict decaBDE as set out in the Alert of February 3rd. Our Swedish government contact explained that Sweden intend to adopt the legislation this summer (may be in August). It is not yet known when the requirements would enter into force.

Decabromodiphenyl ether

Section 4 a Decabromodiphenyl ether (CAS number 1163-19-5) must not be placed onto the market or used as a substance or be contained in a substance or preparation at levels higher than 0.1% by weight.

Goods, or flame-protected parts thereof, containing decabromodiphenyl ether at levels higher than 0.1% by weight must not be placed on the market.

Section 4 b The prohibition in Section 4 a shall not apply to

1. vehicles as referred to in the Act (2001:559) on road traffic definitions;
2. products covered by Section 11 a.

Section 4 c Under special circumstances the Swedish Chemicals Inspectorate may issue administrative provisions on exemption from the ban in accordance with Section 4 a.

In exceptional circumstances, the Swedish Chemicals Inspectorate may grant dispensation in individual cases from the ban in Section 4 a up to 31 December 2009.

→ New Developments

Sweden Continued

Read more:

- Regulatory alert
<http://www.eco-track.com/r/889>
- Reply Sweden (part of notification procedure)
http://www.eco-track.com/docs/Sweden_decaBDE_2006.pdf
- Swedish proposal and risk assessment
http://www.eco-track.com/docs/swebackground_info_alert_swe_decaBDE.pdf

3. Norway Update**Norway's proposal on decaBDE not in force as of July 2006**

As outlined in an alert of April 28th 2005 Norway notified a proposal to the EU to ban decaBDE as of July 2007. The proposed restriction was to add decaBDE to the requirements of pentaBDE and octaBDE (the latter two originate from harmonised EU legislation). The proposal was to amend paragraph 22 of the Product Regulations as follows.

§ 2-20 Brominated flame retardants

It is prohibited to produce, import, export, sale and use in pure form and in preparations in higher concentrations than 0,1 % by mass of the following substances;

Name CAS-number Formula

- Pentabromodiphenyl ether (32534-81-9) C₁₂H₅ Br₅O
- Octabromodiphenyl ether (32536-52-0) C₁₂ H₂ Br₈O
- Decabromodiphenyl ether (1163-19-5) C₁₂Br₁₀O

It is also prohibited to produce, import, export and sell products or flame retardant parts thereof, containing one of these substances in concentrations higher than 0,1 % by mass.

→ New Developments

Norway Continued

Until 31 March 2006 the use of pentabromodiphenyl ether in aircraft emergency evacuation systems is exempted from the general restriction. The prohibition concerning decabromodiphenyl ether enters into force on 1 July 2006.

Exempted from this prohibition is the use of decabromodiphenyl ether in vehicle which is approved according to the at all times existing Norwegian regulation relating to the Vehicle Construction Regulation of 4 October 1994 no. 918, for crafts recorded in the Norwegian Civil Aircraft Register in accordance with the Act of 11 June 1993 No. 101 relating aviation, vessels recorded in accordance with the Act of 24 June 1994 No. 39 relating to navigation or Norwegian International Ship Register in accordance with the Act of 12 June 1987 No. 48 relating to the Norwegian International Ship Register or rolling material for use on railway, including tram, metro, subway, and similar means of transport intended to be used on track.

The ECO-TRACK contacted the Norwegian government about the above proposal. It was explained that the proposal is currently pending and that it will not enter into force on July 1st of this year. The Norwegian authorities explained that they decided to follow the EU position on decaBDE as far as it concerns applications that fall under the RoHS Directive.

If and if so how Norway will proceed with a restriction of other uses of decaBDE, which might for example affect the use of the flame retardant on textiles is not clear at this moment.

→ New Developments

4. Germany Update

German opinion: Triclosan Belongs in the clinic and in the Doctor's Surgery

Triclosan (CAS 3380-34-5) is used as a disinfectant for medical applications, but is for its biocidal properties also more and more used in consumer products such as detergents, cleaning products, cosmetics and for its biocidal properties in textile and plastics finishing.

The German Federal Institute for Risk Assessment published an article explaining that they are of the opinion that in order to reduce the risks of microorganisms becoming resistant against triclosan it should only be used in clinics and doctor's surgeries where its application is necessary on hygienic grounds. "But when it comes to everyday life, soap and water or conventional cleaning products are quite capable of achieving the same effect."

The article published by BfR furthermore outlines that "The number of products containing the biocide, triclosan, has increased dramatically in recent years. In contrast to the levels in disinfectants for medical purposes, consumer goods only contain low doses of triclosan. Frequently, these low concentrations are not sufficient to kill the bacterial pathogens. By contrast, the selection pressure is increased: pathogens that have developed resistance to triclosan multiply more readily than non-resistant pathogens from the same species. In the case of triclosan the emerging resistance of the bacterial pathogens also makes them insensitive to other antimicrobial substances and antibiotics."

→ New Developments

Germany Continued

“BfR is of the opinion that triclosan and related biocides should be used very restrictively and with the necessary degree of caution. This applies particularly to the private household where the use of substances of this kind does not offer any hygiene advantages and the same effect can be achieved by other classical means. BfR, therefore, advises consumers to refrain from using biocide-containing cleaning agents and products in the home.”

Read the full article:

- In English (press release):
<http://www.bfr.bund.de/cms5w/sixcms/detail.php/7975>
- In German (press release):
<http://www.bfr.bund.de/cms5w/sixcms/detail.php/7970>
- In German (full publication):
http://www.bfr.bund.de/cm/217/triclosan_nur_im_aerztlichen_bereich_anwenden_um_resistenzbildungen_vorzubeugen.pdf

→ New Developments

5. Thailand Update

Thailand foresees to restrict hazardous chemicals in products

As outlined in the alert of May 4th 2006, Thailand aims to restrict the use of several hazardous substances. The deadline for issuing comments was June 28th. In the upcoming quarter contact will be sought with the Thai authority to see if and when they will proceed with their proposal.

The ECO-TRACK team arranged for a translation of the Thai proposal. This unofficial translation is available in ECO-TRACK through the below link.

Summarising information on the Thai proposal can be found in the alert of May 4 2006.

Read more:

- Alert on Thai proposal:
<http://www.eco-track.com/r/948>
- Proposal in Thai:
<http://www.eco-track.com/docs/wtothai-rev1.pdf>
- Unofficial Translation of Thai proposal
<http://www.eco-track.com/docs/thai%20translation.pdf>

→ New Developments

6. Other Requirements: not substance related

The Republic of Armenia

Even though the following requirements are not related to restricted substances, the ECO-TRACK team wanted to point out that The Republic of Armenia put forward notifications to the WTO for two proposals that concern products in the scope of ECO-TRACK.

- Technical Regulation on the Names of Textiles” (20 pages, Armenian).

The technical regulation sets out the kinds and names of textile threads and fibres, the requirements for marking and accompanying forms of products, the permissible quantities for calculating the mass of fibres contained in textile manufacture.

Reference of notification: G/TBT/N/ARM/34

- Marking of the Materials of Basic Parts of Shoes Intended for Sale (7 pages, Armenian)

The Regulation sets out kinds of shoes and the requirements for marking the materials used for basic shoe parts.

Reference of notification: G/TBT/N/ARM/33

→ Updates

1. Nickel Update

Updates in process: Nickel requirements and pentaBDE & octaBDE requirements

The ECO-TRACK team is currently working on uploading information in the database about the transpositions of Directive 2003/11/EC (restriction of the flame retardants pentaBDE and octaBDE) and 2004/96/EC (amendment to the nickel requirements of 76/769/EEC).

2. Czech Republic Update

Czech Republic

The ECO-TRACK team obtained a new and consolidated version of the Czech legislation implementing Directive 76/769/EEC. The new text, 221/2004 replaces the one currently available in ECO-TRACK (301/1998).

In addition to the information already available in ECO-TRACK, the transpositions of the following topics can be found in this text:

- Azo dyes
- OctaBDE and pentaBDE

Read more:

- http://www.eco-track.com/docs/Decree_221_04.pdf

→ Eco-labels and NGO activities

1. Revision of EU Eco-label Textiles

On March 27th 2006 the first meeting was held on the revisions of the EU Eco-label for Textiles. The project's objective is to provide a document which can be used as a basis for a draft Commission Decision establishing revised criteria for the EU Eco-label for textiles.

The first meeting was among others meant to establish which criteria need revision, and which will remain unchanged. The minutes of the first meeting list the criteria that need to be changed.

As far as the restricted substance requirements are concerned, the idea is to make those requirements more similar to Öko-Tex 100.

Read more:

- Revision pages:
http://ec.europa.eu/environment/ecolabel/product/pg_clothing_textiles_en.htm#revision_criteria
- Background paper for first meeting:
http://ec.europa.eu/environment/ecolabel/pdf/textiles/background_27_03_06.pdf
- Minutes of first meeting:
http://ec.europa.eu/environment/ecolabel/pdf/textiles/minutes_27_03_06.pdf

→ Eco-labels and NGO activities

2. Greenpeace – toxic free fashion show

As part of Greenpeace International's toxics campaign, Greenpeace published a press release on June 19th about a "toxic free fashion show" held in Madrid. With other NGOs Greenpeace is campaigning for the "substitution principle" to be incorporated in the new chemicals regime "REACH".

The press release outlines that "The catwalk is intended as a well-dressed wake-up call to grey-suited political types in Brussels, who later this year will vote on new rules to govern the chemical industry. This autumn, the European Union will decide on the fate of a new chemicals regulation regime called REACH. At the heart of the debate is whether the new law will give a clear signal to industry to substitute hazardous chemicals with safer alternatives or not. Currently, thousands of chemicals are used in consumer products with little or no health or safety assessments, leading to widespread contamination. An unborn baby may now be exposed to 100 man-made chemicals before it is even born."

The article furthermore indicates that several "highstreet brands" are going "toxic free": "Fashion giants Mango and Camper have now committed to phase out dangerous chemicals from their lines. They join the likes of H&M, Marks and Spencer, and Puma in going toxics-free."

Read more:

- Greenpeace press release:
<http://www.greenpeace.org/international/news/toxicfreefashion190606>

→ Contacts

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