

18 February 2011

HBCD Included in the Final Annex XIV List of Substances for Authorization under REACH

On 18 February, the amended Annex XIV of substances for Authorization under REACH was published in the Official Journal and will enter into force on 21st February. Consequently, HBCD – which is included in the Annex – is now officially subject to the Authorization¹ procedure under REACH, along with five other substances.

As proposed by the European Commission, the final text of the Annex XIV confirms the extension of nine months to the HBCD Authorization timeline as compared to ECHA's² recommendation³. Such an extension had been suggested due to the concerns expressed by a number of Member States regarding the potential impact on the PS foam industry of an eventual inclusion of HBCD in Annex XIV.

According to the extended timeline, applications for an Authorization to use HBCD should be submitted by 21 February 2014⁴. The amended Annex XIV also determines that HBCD can be used until the so called "sunset date" (21 August 2015), if no application for Authorisation of HBCD has been made. After this date, only authorised applications will continue to be allowed.⁵

¹ REACH Annex XIV

² Located in Helsinki, Finland, the European Chemicals Agency (ECHA) is in charge of managing the registration, evaluation, authorisation and restriction processes for chemical substances to ensure consistency across the European Union.

³ ECHA's recommendation was published in June 2009 and is available here:

http://echa.europa.eu/doc/authorisation/annex_xiv_rec/annex_xiv_subst_inclusion.pdf

⁴ As stated in the REACH webpage of European Commission, DG Enterprise, there is a mistake in the Annex XIV published on 18 Feb (see footnote 1): "All dates (latest application date and sunset date) should read one month later than those indicated on the table. A corrigendum will be published shortly in the OJEU to that effect". For further information please see: http://ec.europa.eu/enterprise/sectors/chemicals/reach/index_en.htm

⁵ On 17 February 2011, the European Commission published a press release with a misleading wording: the sentence "Substances in Annex XIV cannot be placed on the market or used unless authorisation has been granted for a specific use" should read as follows: "After the 'sunset date', substances in Annex XIV cannot be placed on the market or used unless authorisation has been granted for a specific use", as specified in art. 58.1 (c) of REACH.

The presence of HBCD in Annex XIV does not have any legal impact on the manufacturing and marketing of HBCD containing products until the “sunset date”. In particular, the proposed listing does not entail any legislative restriction on the manufacturing, handling, sales or use of HBCD containing products at this stage. As the registration of HBCD was completed on 11 November 2009, there is no need for downstream users to notify ECHA.⁶

The Guidance⁷ on the preparation of an application for authorization was published in the Official Journal of the European Union on 28 January 2011⁸.

ICL-IP intends to work closely with its customers, whenever required, to submit an application for authorization for the use of HBCD, until a suitable and more sustainable alternative is made available and the subsequent market transition is completed.

⁶ REACH Art. 7.6

⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:028:0001:0121:EN:PDF>

⁸ <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2011:028:SOM:EN:HTML>