



Title: POPs Regulation includes HBCDD exemption

Date: 3 March 2016

Abstract: On 2 March 2016, the *Official Journal of the European Union* published Regulation (EU) 2016/293 amending Regulation (EC) No 850/2004 on persistent organic pollutants (POPs) as regards Annex I. It includes specific exemption on intermediate use or other specifications for hexabromocyclododecane ('HBCDD'). This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*, i.e. 22 March 2016.

On 2 March 2016, the *Official Journal of the European Union* published Regulation (EU) 2016/293 amending Regulation (EC) No 850/2004 on persistent organic pollutants (POPs) as regards Annex I. It includes specific exemption on intermediate use or other specifications for hexabromocyclododecane ('HBCDD'). This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*, i.e. 22 March 2016.

HBCDD is included in Annex A at the sixth meeting of Stockholm Convention, whose production, use, import and export are prohibited. However, that amendment also contains a specific exemption for the production and use of HBCDD in expanded polystyrene and extruded polystyrene in buildings. The clauses with regard to HBCDD have entered into force since 26 November 2014.

HBCDD is currently listed in Annex XIV to Regulation (EC) No 1907/2006, as a result of which HBCDD may be placed on the market or used after 21 August 2015 only if such placing on the market or use has been authorised in accordance with Title VII of Regulation (EC) No 1907/2006, or if an application has been made for such an authorisation before 21 February 2014 and a decision on that application is still pending. C&K Testing has also reported the news about European Commission granted HBCDD authorisations for 13 enterprises.

In Part A of Annex I to Regulation (EC) No 850/2004, the following entry is added:

Substance	'Hexabromocyclododecane means: hexabromocyclododecane, 1,2,5,6,9,10-hexabromocyclododecane and its main diastereoisomers: alpha-hexabromocyclododecane; beta-hexabromocyclododecane; and gamma-hexabromocyclododecane
CAS No	25637-99-4, 3194-55-6, 134237-50-6, 134237-51-7, 134237-52-8
EC No	247-148-4, 221-695-9
Specific Exemption on intermediate use or other specifications	1. For the purposes of this entry, Article 4(1)(b) shall apply to concentrations of hexabromocyclododecane equal to or below 100 mg/kg (0,01 % by weight) when it occurs in substances, preparations, articles or as constituents of the flame-retarded parts of articles, subject to review by the Commission by 22 March 2019. 2. The use of hexabromocyclododecane, whether on its own or in preparations, in the production of expanded polystyrene articles, and the production and placing on the market of hexabromocyclododecane for such use, shall be allowed provided that such use has been authorised in accordance with Title VII of Regulation (EC) No 1907/2006 of the European Parliament and of the Council(*), or is the subject of an application for authorisation submitted by 21 February 2014 where a decision on that application has yet to be taken. The placing on the market and use of hexabromocyclododecane, whether on its own or in preparations, in accordance with this paragraph shall only be allowed until 26 November 2019 or, if earlier, the date of expiry of the review period

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specified in an authorisation decision or the date of withdrawal of that authorisation pursuant to Title VII of Regulation (EC) No 1907/2006.

The placing on the market and use in buildings of expanded polystyrene articles, that contain hexabromocyclododecane as a constituent of such articles and are produced in accordance with the exemption in this paragraph, shall be allowed until 6 months after the date of expiry of that exemption. Such articles already in use by that date may continue to be used.

3. Without prejudice to the exemption in paragraph 2, the placing on the market and use in buildings of expanded polystyrene articles and extruded polystyrene articles that contain hexabromocyclododecane as a constituent of such articles and are produced before or on 22 March 2016 shall be allowed until 22 June 2016. Paragraph 6 shall apply as if such articles were produced pursuant to the exemption in paragraph 2.

4. Articles that contain hexabromocyclododecane as a constituent of such articles and are already in use before or on 22 March 2016 may continue to be used and further placed on the market and paragraph 6 shall not apply. Article 4(2), third and fourth subparagraphs shall apply to such articles.

5. The placing on the market and use in buildings of imported expanded polystyrene articles that contain hexabromocyclododecane as a constituent of such articles shall be allowed until the date of expiry of the exemption in paragraph 2 and paragraph 6 shall apply as if such articles were produced pursuant to the exemption in paragraph 2. Such articles already in use by that date may continue to be used.

6. Without prejudice to the application of other Union provisions on the classification, packaging and labelling of substances and mixtures, expanded polystyrene, in which hexabromocyclododecane is used pursuant to the exemption in paragraph 2, must be identifiable by labelling or other means throughout its life cycle.

In order to reinforce the practical application and consistent enforcement in the European Union of POPs Regulation, a threshold limit should be set for HBCDD occurring as an unintentional trace contaminant in substances, preparations and articles. In order to take account of technical developments, this threshold limit should be reviewed by the Commission within 3 years from the date of entry into force of this Regulation with a view to lowering the threshold.

In accordance with Regulation (EU) 2016/293, extruded polystyrene containing HBCDD shall not be allowed for production after March 22. However, it allows for a three-month transitional period for the placing on the market and use in buildings of expanded polystyrene articles and extruded polystyrene articles that contain hexabromocyclododecane as a constituent of such articles and are produced before or on 22 March 2016, in other words, it shall be allowed until 22 June 2016.

The specific exemption for HBCDD ends on 26 November 2019, which is 5 years after the date of entry into force of the Convention with respect to HBCDD. Expanded polystyrene, in which hexabromocyclododecane is used pursuant to the exemption in paragraph 2, must be identifiable by labelling or other means throughout its life cycle.

Authorisation applications can be granted under REACH Regulation only when used in exemption scope of POPs regulation. C&K Testing reminds you that the amendment will be effective on 22 March 2016 and even imported products containing HBCDD shall be under the threshold limit.

Further information

[Regulation \(EU\) 2016/293](#)

[European Commission Decisions on HBCDD authorisation——C&K Testing](#)

[中文阅读](#)

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