II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) 2015/2030

of 13 November 2015


(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,


Whereas:


(2) Decision 2009/2 (4), adopted by the CLRTAP Executive Body at its 27th Session from 14 to 18 December 2009, identified short-chain chlorinated paraffins (hereinafter 'SCCPs') as a persistent organic pollutant. As such, they were added to the Protocol for elimination, subject to two exemptions: use as fire retardants in rubber used in conveyor belts in the mining industry or in dam sealants. Decision 2009/2 obliges the Parties to the Protocol to eliminate these two uses once suitable alternatives are available. 2/EC was implemented in the law of the Union by Commission Regulation (EU) No 519/2012 (5), which listed SCCPs in Annex I to Regulation (EC) No 850/2004.

(3) The SCCPs entry in Annex I to Regulation (EC) No 850/2004 provides for derogation for the production, placing on the market, and use of SCCPs in conveyor belts in the mining industry and in dam sealants. To comply with Decision 2009/2, according to that entry, as soon as new information on details of uses and safer alternative substances or technologies become available, the Commission must review the derogations with a view to phasing out the remaining uses of SCCPs. Such review, whilst mandated by Decision 2009/2, is in line with Article 14(3) of Regulation (EC) No 850/2004.

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,


(4) C.N.556.2010.TREATIES-4.
In accordance with Decision 2009/2 and the SCCPs entry in Annex I to Regulation (EC) No 850/2004, the review of the exemptions should focus on the existence of suitable alternatives for the two remaining uses. Once such alternatives are identified, the exemptions should be deleted from the entry.

In 2010 the Netherlands submitted a dossier on SCCPs entitled ‘Evaluation of possible restrictions on short chain chlorinated paraffins’ (hereinafter ‘the dossier’) (1). The dossier identifies a number of alternatives which could be used instead of SCCPs in conveyor belts in the mining industry and in dam sealants. The dossier takes into the consideration the outcome of a public consultation which was conducted during its preparation by the Netherlands.

Among the various alternatives identified, the most well-known are the medium- and long-chain chlorinated paraffins (MCCPs and LCCPs), with MCCPs appearing to be the alternative of choice for the vast majority of users. Both MCCPs and LCCPs combine performance characteristics that resemble those of SCCPs. Other available alternatives include substances such as organophosphate flame retardants and phosphate plasticisers, inorganic flame retardants and several others.

In the course of that public consultation, it has been suggested by some European companies that a transition to alternatives may not necessarily be smooth and reformulation could take a considerable time. However, examples show that there are European companies that have begun using alternatives without major difficulties. With particular regard to the two applications that are exempt under Regulation (EC) No 850/2004, a major manufacturer of the conveyor belts has indicated that transition to MCCPs was smooth and incurred only low cost. At the time of the preparation of the same consultation, two other companies were working on alternatives.

In 2013 the Commission consulted with the relevant stakeholders in the mining industry. The consultation indicated that conveyer belts containing SCCPs are no longer used by the industry for mining purposes.

With regard to dam sealants containing SCCPs, they do not appear to be manufactured, placed on the market or used in the Union. Indeed, already in 2008 the relevant stakeholders indicated to the European Chemicals Agency (2) that SCCPs do not appear to be in use or are in the process of being phased out in sealants (including dam sealants) in Europe.

In June 2012, the only known entity that registered manufacture of SCCPs under Regulation (EC) No 1907/2006 of the European Parliament and of the Council (3) declared that they had stopped and do not intend to restart manufacture of the substances.

There are suitable alternatives to the use of SCCPs in conveyor belts in the mining industry and in dam sealants. Consequently, the Commission is obliged by Decision 2009/2 and the review clause in the SCCPs entry in Annex I to Regulation (EC) No 850/2004 to eliminate those two uses. Although the industry appears to have voluntarily phased out those two uses, the exemptions in the entry should be deleted to ensure full compliance with the thrust of the international agreement to eliminate the use of persistent organic pollutants.

It is also necessary to clarify that, with regard to SCCPs, the prohibition in Article 3(1) of Regulation (EC) No 850/2004 does not apply to conveyor belts in the mining industry and dam sealants already in use before or on the date of entry into force of this Regulation.

It is furthermore necessary to clarify that articles that contain SCCP in concentrations lower than 0,15 % by weight are allowed to be placed on the market and used, as this is the amount of SCCP that may be present as an impurity in an article produced with MCCP.

The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Council Directive 67/548/EEC (4),

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 850/2004 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 November 2015.

*For the Commission*

The President

Jean-Claude JUNCKER

ANNEX

In Part B of Annex I to Regulation (EC) No 850/2004, the entry for Alkanes C10-C13, chloro (short-chain chlorinated paraffins) (SCCPs) is replaced by the following:

<table>
<thead>
<tr>
<th>Alkanes C10-C13, chloro (short-chain chlorinated paraffins) (SCCPs)</th>
<th>85535-84-8</th>
<th>287-476-5</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. By way of derogation, the production, placing on the market and use of substances or preparations containing SCCPs in concentrations lower than 1 % by weight or articles containing SCCPs in concentrations lower than 0.15 % by weight shall be allowed.</td>
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<td>2. Use shall be allowed in respect of:</td>
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<td>(a) conveyor belts in the mining industry and dam sealants containing SCCPs already in use before or on 4 December 2015; and</td>
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<tr>
<td>(b) articles containing SCCPs other than those referred to in (a) already in use before or on 10 July 2012.</td>
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<td>3. Article 4(2) third and fourth subparagraphs shall apply to the articles referred to in point 2 above.</td>
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</tbody>
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