

Regulatory Alert

Addition of 4 Phthalates to RoHS – Compliance Deadlines

EXECUTIVE SUMMARY

Background on Regulation:

The European Union restriction of the use of certain hazardous substances (RoHS) in electrical and electronic equipment (EEE) impacts the electronics industry and many electrical products. RoHS1 (Directive 2002/95/EC) originated in the EU in 2002 and restricted the use of six hazardous materials found in electrical and electronic products.

In 2011, RoHS2 (Directive 2011/65/EU) was expanded to cover all electrical/electronic equipment, cables, and spare parts and requires additional compliance recordkeeping through the supply chain. In addition, the 2011 update to RoHS supported regulatory alignment with other relevant EU directives including the “CE” marking for shipping compliance within the EU and the Waste Electrical and Electronic Equipment (WEEE) directive.

Regulatory Update:

RoHS3 (Directive 2015/863/EU), the subject of this regulatory alert, was published on June 4, 2015. In the directive, four phthalates were added to the current list of hazardous substances in electrical and electronic equipment. There are 2019 and 2021 compliance deadlines associated with this directive.

Link to regulation: <https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=CELEX%3A32015L0863>

APPLICABILITY

The four phthalates are: 1) Bis(2-Ethylhexyl) phthalate (DEHP), 2) Butyl benzyl phthalate (BBP), 3) Dibutyl phthalate (DBP), and 4) Diisobutyl phthalate (DiBP)

The directive does not apply to:

- Equipment that is necessary for the protection of the essential interests of the security of Member States, including arms, munitions and war material intended for specifically military purposes
- Equipment designed to be sent into space
- Large-scale stationary industrial tools
- Large-scale fixed installations
- Means of transport for persons or goods, excluding electric two-wheel vehicles which are not type-approved
- Non-road mobile machinery made available exclusively for professional use
- Active implantable medical devices
- Equipment specifically designed solely for the purposes of research and development only made available on a business-to-business basis.
- Photovoltaic panels intended to be used in a system that is designed, assembled and installed by professionals for permanent use at a defined location to produce energy from solar light for public, commercial, industrial and residential applications
- Equipment which is specifically designed, and is to be installed, as part of another type of equipment that is excluded or does not fall within the scope of this Directive, which can fulfill its function only if it is part of that equipment, and which can be replaced only by the same specifically designed equipment

RESTRICTIONS/REPORTING/RECORDKEEPING

The maximum concentration value by weight in homogeneous materials for each newly introduced phthalate is 0.1%.

There is a delayed restriction on medical devices (including *in vitro* medical devices), and monitoring and control instruments (including industrial monitoring and control instruments).

The following are exempt from the new phthalates restrictions:

- Cables or spare parts for the repair, reuse, updating of functionalities or upgrading of capacity of EEE placed on the market before July 22, 2019
- Medical devices and monitoring and control instruments placed on the market before July 22, 2021

RELEVANT DATES

Effective date: June 4, 2015

Compliance Deadline: July 22, 2019 - Most product classifications (EEE categories 1 to 7 and categories 10 & 11)
July 22, 2021 - Medical devices and monitoring and control instruments (categories 8 & 9)

EEE categories are defined in Annex 1 of Directive 2011/65/EU: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0065&from=EN>

RISKS TO AEROSPACE AND DEFENSE

Business Risk: Potential chemical obsolescence issues. Sourcing parts and components may be challenging in the future, due to limited availability. Note: Most cable, wire insulators and other PVC products contain regulated phthalates.

Confusion may exist between aircraft spare parts and computer monitors. A spare monitor for an aircraft looks very similar to a commercial desk monitor; however, both are regulated very differently under RoHS. The aerospace and defense industry should be prepared when shipping spare parts into the EU to have a statement of exemption ready and/or included on the product packaging or the shipping document.

© 2019 International Aerospace Environmental Group® ALL RIGHTS RESERVED

Disclaimer:

THIS DOCUMENT IS PROVIDED BY INTERNATIONAL AEROSPACE ENVIRONMENTAL GROUP, INC. ("IAEG") FOR INFORMATIONAL PURPOSES ONLY. ANY INACCURACY OR OMISSION IS NOT THE RESPONSIBILITY OF IAEG. DETERMINATION OF WHETHER AND/OR HOW TO USE ALL OR ANY PORTION OF THIS DOCUMENT IS TO BE MADE IN YOUR SOLE AND ABSOLUTE DISCRETION. PRIOR TO USING THIS DOCUMENT OR ITS CONTENTS, YOU SHOULD REVIEW IT WITH YOUR OWN LEGAL COUNSEL. NO PART OF THIS DOCUMENT CONSTITUTES LEGAL ADVICE. USE OF THIS DOCUMENT IS VOLUNTARY. IAEG DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THIS DOCUMENT OR ITS CONTENTS. IAEG HEREBY DISCLAIMS ALL WARRANTIES OF ANY NATURE, EXPRESS, IMPLIED OR OTHERWISE, OR ARISING FROM TRADE OR CUSTOM, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, QUALITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, COMPLETENESS OR ACCURACY. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, IAEG SHALL NOT BE LIABLE FOR ANY LOSSES, EXPENSES OR DAMAGES OF ANY NATURE, INCLUDING, WITHOUT LIMITATION, SPECIAL, INCIDENTAL, PUNITIVE, DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES OR LOST INCOME OR PROFITS, RESULTING FROM OR ARISING OUT OF A COMPANY'S OR INDIVIDUAL'S USE OF THIS DOCUMENT, WHETHER ARISING IN TORT, CONTRACT, STATUTE, OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.