

EU Monitoring Report

5–12 November 2020

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Chemicals

➤ REACH

- Draft agenda for 37th meeting of Competent Authorities for REACH & CLP

Source : [European Commission](#)

The meeting takes place on 17–18 November 2020. The agenda for the REACH part includes:

- Chemicals Strategy for Sustainability (REACH related actions)
- REACH Review Action 3 - current state of play and draft multiyear Development Plan
- Polymers - Update from the 1st CASG-polymers meeting
- ECHA-COM joint paper on intermediates; compilation of comments (**see below**)
- REACH restriction and OSH - Considering when to use limit values under OSH and/or REACH restrictions to regulate industrial and professional workplaces- ENV/GROW paper
- Essential Uses – A possible concept for REACH (**see below**)

Regarding the CLP part of the meeting, the agenda lists the following:

- Annex VIII to CLP: status IT tools and 2nd amendment
 - Chemicals Strategy for Sustainability (CLP related actions)
 - Note on borates (**see below**)
- Comments to ECHA-COM Joint Paper on intermediates for 37th CARACAL meeting

Source: [European Commission](#)

A joint ECHA/COM document (CA/37/2020) was prepared for the 35th CARACAL Meeting of 30 June 2020 to analyse the Impact of the Judgement of the Court of Justice in case C-650/15 P (Acrylamide judgement) on the definition of intermediates. This document gathers the comments received from Member States Competent Authorities and stakeholders. The

Commission services welcome the observations and concerns raised, which will be duly consider in further discussions to revise ECHA Guidance on Intermediates.

- **Borate compounds discussion note for 37th CARACAL meeting**

Source: [European Comission](#)

In the course of the discussions on the 17th ATP, the German CA proposed adding a new numerical note in Annex VI Section 1.1.3.2 of the CLP Regulation that should be assigned to the seven boron compounds, stipulating that for the classification of mixtures containing such compounds, the sum of the concentrations of these compounds needs to be considered . The proposal was based on the knowledge that these boron compounds exert their reproductive toxicity through the same toxic entity (boric acid/borate ion). Indeed, these compounds are included in the ECHA Guidance as an example where additivity can be assumed.

As the Commission considered that the scope and wording of the note would need some further consideration and discussion, and the possible implications for other classified groups of substances (e.g. metals) may need to be considered, it proposed to have a dedicated discussion at Caracal-37, with the possibility to include the note in one of the coming amendments to CLP.

Competent Authorities and observers are invited to comment on the document and the discussion points put forward. Written comments should be sent by 7 January 2021.

- **Commission to kick-off discussions on definition of “essential uses” of harmful chemicals at 37th CARACAL meeting**

Source: [European Commission](#)

The Commission has announced that it would launch discussions with Member States Competent Authorities in charge of the EU’s Chemicals Regulation “REACH” about how to define criteria for establishing when the use of harmful chemicals should be tolerated in products. Under the proposed criteria, the use of the most harmful chemicals would be only allowed in products such as medical devices or protective garments where safer alternatives are currently not available.

Discussions are expected to start over 17-18 November, where the Commission will present members of the expert group for the REACH Regulation (CARACAL) with a possible way

forward for introducing such criteria in EU legislation. The criteria would underpin the extension of the generic approach to risk management for the most harmful chemicals, whereby such chemicals would be phased out from consumer products, in particular toys, childcare articles, cosmetics, detergents, furniture and textiles.

- Missed the webinar on restriction of per- and polyfluoroalkyl substances (PFAS) under REACH?

Source : [ECHA](#)

The webinar explained the REACH restriction process and the status of the work of five European countries on the potential restriction of all per- and polyfluoroalkyl substances (PFAS). The recording, presentations and questions and answers are now available.

➤ Biocides

- Minutes of the Biocidal Products Committee (BPC) on active chlorine generated from sodium chloride by electrolysis

Source: [ECHA](#)

Draft BPC opinions on active chlorine generated from sodium chloride by electrolysis for PT 1, 2, 3, 4 and 5.

- Delegated act adopted concerning the making available on the market and use of biocidal products

Source: [European Commission](#)

The act concerns the European Union rules on the information which companies have to submit for the evaluation of the safety of biocidal active substances and of biocidal products. More specifically, the delegated act adapts data requirements in the Annexes to the BPR to the ED criteria.

- Delegated act adopted regarding the BPR regulation, to include citric acid as an active substance in Annex I thereto

Source: [European Commission](#)

The delegated act was adopted on 3 November 2020.

- New uploads of summaries of product characteristics for a biocidal product family

Source: ECHA

ECHA recently made available new summaries of product characteristics for biocidal product families:

- [WTP Algaecide Product Family 1](#) by Water Treatment Products Limited
- [Long Life Algaecide](#) by Water Treatment Products Limited
- [LO-CHLOR POOL ALGAECIDE](#) by A.Q.A. CHEMICALS, S.L.
- [LO-CHLOR POOL ALGAECIDE 2](#) by A.Q.A. CHEMICALS, S.L.
- [CLEAR 'N' CLEAN](#) by Minerals Supplies International
- [ALGUINET](#) by MANICA COBRE,S.L.
- [PEROXYDE D'HYDROGENE 34.9%](#) by GIE H2O BIOCIDÉ
- [Biopren 50 LML mosquito larvicide concentrate](#) by EDIALUX
- By Soell GmbH:
 - [Soell Algaecide Product Family 1](#)
 - [BG Kupfersulfat 25](#)
 - [BG Kupfersulfat 50-1 - NOT YET AUTHORISED FOR UK](#)
 - [BG Kupfersulfat 50-2](#)
 - [BG Kupfersulfat 60](#)

➤ **CLP**

- **Article 95 update for biocidal product type 2**

Source: ECHA

Article 95 has been updated and includes new suppliers of biocides as disinfectants such as around swimming pools (biocidal product type 2):

- Active chlorine released from hypochlorous acid (Redefined from Active Chlorine: manufactured by the reaction of hypochlorous acid and sodium hypochlorite produced in situ) submitted by Aqua Electra GmbH
 - Active chlorine released from hypochlorous acid (Redefined from Active Chlorine: manufactured by the reaction of hypochlorous acid and sodium hypochlorite produced in situ) submitted by AQUINOCARE Water Innovations GmbH.
- **Scrutiny period finished for Commission delegated regulation to improve the workability of information requirements related to emergency health response**

Source: [European Commission](#)

The Regulation amends Regulation (EC) 1272/2008 to address a number of workability issues concerning the implementation of Annex VIII to that Regulation.

- **Inspectors to check duty to notify mixtures for poison centres**

Source: [ECHA](#)

The Enforcement Forum has agreed to check the compliance of companies that have a duty to notify mixtures to the Poison Centre Notification portal. The Forum and BPRS also agreed to take steps to make their work more transparent.

- **Scrutiny period finished for Commission delegated regulation to improve the workability of information requirements related to emergency health response**

Source: [European Commission](#)

The Commission's new delegated regulation amends article 25 of Regulation (EC) 1272/2008 of the European Parliament and of the Council on classification, labelling and

packaging of substances and mixtures as regards bespoke paints. The amendment provides a solution for bespoke paints in case of submissions under Annex VIII to this Regulation.

➤ **Brexit**

- Act now – updated IT tools and Brexit advice for companies

Source: [ECHA](#)

ECHA has adapted its IT tools and advice to companies to take into account the Protocol on Ireland and Northern Ireland and the end of the transition period of the UK's withdrawal from the EU. Companies should act now if they are affected by the withdrawal.

Sustainability

➤ **Energy**

- Commission to launch four public consultations in an important step towards climate neutrality

Source: [European Commission](#)

The European Commission today announced its plan to launch open public consultations on forthcoming revisions to the laws designed to limit the EU's emissions of greenhouse gases.

- **Geothermal: the underground renewable energy source that says it can power Europe**

Source : [EURACTIV](#)

Large-scale geothermal energy has long been constrained to volcanic areas where heat can easily be captured and turned into electricity. Today, breakthroughs in drilling techniques are opening new horizons for the technology, offering the prospect of “geothermal anywhere”.

For centuries, ambient heat trapped beneath the ground has been used to warm Europe – from Roman baths to the world's first district heating system at Chaudes-Aigues in France in the 14th century. The first industrial geothermal electricity plant opened in Larderello, Italy,

in 1904. In 1913, it was producing 250 kilowatts of electricity. Over a hundred years later, in 2016, geothermal energy worldwide produced 75,000 gigawatt-hours per year.

Geothermal is cheap, reliable and renewable, providing heating, electricity production and cooling, but Europe has never fully realised its potential. In Europe, Italy and Turkey are the largest users of geothermal – alongside France and Germany – and more recently, Eastern European countries like Poland and the Czech Republic, which sit above the Podhale Basin.

Cities across the world use geothermal to heat entire communities, like Reykjavik in Iceland, where [99% of its space heating has been provided by geothermal since the 1930s](#). However, [the United States, Indonesia and the Philippines](#) have overtaken Italy as geothermal world leaders.

Shallow and deep geothermal

Geothermal is divided into two main categories: shallow geothermal, which is anything up to 1 kilometre below ground and deep geothermal, which goes down to around 8-10km.

Shallow geothermal covers everything from small plants, which drill up to a kilometre, to small-scale heating systems dug 1 or 2 metres down in gardens to capture the year-round, constant heat trapped in the soil. These systems are often used in hybrid home installations, coupled with gas or oil-fuelled boilers. Shallow geothermal is also used to heat larger buildings like the European Parliament or the Bundestag in Germany.

Deep geothermal, by contrast, has so far been limited to areas with tectonic activity, like Italy, America and Indonesia. Put simply, deep geothermal increases the availability of geothermal energy because the drills go deeper to where the Earth is hotter and the amount of energy available increases by around 30°C per kilometre.

According to industry estimates, 70% of the Earth's territory could provide geothermal power using modern drilling techniques. GA Drilling, a company headquartered in Slovakia, says ultra-deep geothermal could provide enough baseload electricity and heat to power the entire planet with local energy sources, opening the prospect of "[geothermal anywhere](#)".

Drilling technology has improved dramatically over the past decade, [allowing deep geothermal to build on the innovations of the oil and gas industry](#) without the risk of earthquakes caused by fracking.

Innovations like horizontal drilling and magnetic ranging make drilling easier and cheaper. It also allows workers in oil and gas industries to transfer into renewables without much retraining.

“This gives them this window where the very skills they’ve honed in oil & gas...can potentially be redeployed on this,” said John Redfern, the CEO of Eavor, a geothermal company based in Canada [who spoke to Recharge, a trade publication](#).

“It would be as pretty damn close to the holy grail as you can get... if it can be done at an affordable price,” said Michael Liebreich, the founder of Bloomberg New Energy Finance, who is chairman of Eavor’s advisory board.

However, there are several barriers facing geothermal technology. Geothermal straddles the convoluted markets of electricity, heating and cooling with a relatively cheap product, which makes it hard to recover high installation costs.

The biggest challenge is the geological mapping required to find the right heat flows and avoid fossil reserves. Hiring the drill also doesn’t come cheap. Between 40 and 70% of the cost of big geothermal projects is spent on hiring, shipping and using the drill. Alongside that, there are long permitting processes, meaning it usually takes between five and seven years to get administrative approval to explore and drill a site.

Gas blocks geothermal expansion

The upfront cost of geothermal plants is even harder to overcome because of continued subsidies to support gas infrastructure at EU and national level.

In order to make geothermal heat more competitive, companies in the sector are calling for heat grids to be supported at European level, similar to what is currently done for the electricity or gas grid. Europe is “locked into” gas, said Sanjeev Kumar, head of policy at the European Geothermal Energy Council (EGEC), a trade association.

“The EU talks tough on decarbonisation and 2050 net neutrality, but a crucial part of the EU’s function is to complete an Internal Market for gas, which basically means that they are mission-driven to increase consumption of gas,” Kumar said.

An [EU list of priority energy infrastructure projects](#), published earlier this year, earmarked €29 billion for gas infrastructure, aimed at completing the EU’s internal gas market.

If only a quarter of that had gone to geothermal, “vast swathes” of Europe could have been switched to geothermal, Kumar said. The European Commission, for its part, believes geothermal could help Europe reach the EU’s renewable energy target of 32% of consumption by 2030. But unlike wind and solar power, measures to support geothermal remain vague.

The reason for the Commission’s cautiousness about geothermal mainly comes to drilling: issues have been raised in the past about emissions released from underground gas reserves during the drilling phase. Risk of water contamination is another source of worry.

But Kumar put this down to one incident in Italy where they drilled into a volcanic region by accident. According to him, 3D modelling can now easily prevent this.

Other than that, potential environmental hazards are few. The carbon footprint of geothermal is low and even negligible for small installations. The biggest carbon impact is caused by the drill, which has to be transported to sites and is usually runs on diesel, although electric drills are now also being designed. Despite these apparent wins, geothermal remains for the time being ostracised from European energy markets.

➤ **Sustainability**

- **Put the Chemical Strategy to work and the toxic 38 to rest**

Source : [ChemSec](#)

The consequence of the Commission’s inaction is not only continuous use of and exposure to hazardous chemicals, but also the loss of business opportunities for safer alternatives.

- **European Parliament Committee for Internal Market and Consumers votes on the draft opinion on “New Circular Economy Action Plan” report**

Source : [European Parliament](#)

The rapporteur for the opinion is Ms Anna Cavazzini (Greens/EFA). The draft opinion highlights various IMCO policy areas, which are crucial to the circular economy. Members tabled 117 amendments to the draft opinion. The Rapporteur has proposed a series of draft compromises on all the aspects covered in the draft opinion, such as fostering reparability

of products, consumer information and transparency, green public procurement and standardisation.

- Why the European chemicals strategy deserves our full attention

Source : [Chemical Watch](#)

The European Commission's response to today's chemicals management challenges are as far reaching as the introduction of the REACH and CLP Regulations more than a decade ago, says Chemical Watch editorial director Geraint Roberts.

The European Commission's chemicals strategy for sustainability will trigger actions that largely build on existing legislation rather than creating a new Regulation such as REACH. But it is no less ambitious than its 2001 White Paper that sketched out REACH's foundations, and over the next ten years it will drive big changes in the chemicals marketplace. Here are some reasons why:

More substances will be banned from the EU market and the pace at which this happens will quicken

New hazard classes for endocrine disruptors, substances that are persistent, bioaccumulative and toxic (PBTs), and those that are persistent and mobile will be added to the EU's classification framework, as set out in the CLP Regulation. Endocrine disruptors and P&M substances will also be added, alongside PBTs and substances that are carcinogenic, mutagenic or reprotoxic (CMRs), to the list of substance categories that are listed in REACH as automatic candidates for the authorisation process. The Commission will produce a roadmap for REACH restrictions – using a grouping approach – for CMRs, PBTs, immunotoxicants, neurotoxicants and other classes of chemicals, and by broadening the current hazard-based rules for restrictions, these can be proposed for restriction on the basis of these hazards.

If these mandatory classification categories for EDCS, PBTs and others are included in CLP; if the Commission gains the power to propose mandatory classifications for substances or substance groups; and if more types of substances are explicitly listed as qualifying for addition to the candidate list and authorisation, businesses can assume that the rate at which the number of substances subject to restrictions of some sort grows will speed up.

Firms in downstream sectors will need materials for their products that do not contain such chemicals – and here lies the threat, and the opportunity, for chemical companies.

Customers in a wide range of sectors, from medical devices to tech, from textiles to cosmetics, and from packaging to building materials, will be looking to their chemical suppliers for reassurance that their supply chains will not be disrupted. They will want to avoid substances likely to face future restriction or authorisation, and they will try and guess which these will be.

Chemical companies should look at their portfolios and decide which returns on investment are now threatened. Should they pay PR firms to defend certain substances for as long as possible and fend off restrictions for as long as they can? Are there some markets where they have alternatives ready to sell or where they can quickly develop new chemistries, for example, by tweaking their existing chemistries and production processes? Do they have competitors who may beat them to it? These are things chemical firms were doing to some extent before the strategy was published, but now they should do this systematically, thoroughly, and quickly.

To minimise exposure to risk, companies should assume that most of the legislative actions included in the strategy's annex will happen. This may turn out not to be the case, but the strategy – subject to negotiations between several DGs – provides a political mandate for DG Environment to take its goals forward. It is difficult to predict the precise details of the obligations that will be placed on companies, and the powers available to the Commission, national authorities and Echa to ensure compliance, but the direction of travel is clear.

Policy implementation will be big, complex and intense

Just as companies in the EU are adapting to their new trading relationship with the UK and the raft of other policy proposals included in the Green Deal, they will need to gear up for the task of tracking the strategy's more than 50 legislative and non-legislative proposals.

These have all been given 'indicative timing' dates falling between now and 2024, so DG Environment's ambition is to get all its proposals published within three years. A few, such as rules for the registration of some polymers, have been discussed for some time but most have not. Trade bodies and companies need to ensure they are poised to take advantage of consultations, including the evaluations and impact assessments that will be conducted on changes to REACH.

The regulatory compliance workload will significantly increase for chemical companies and their immediate customers, and those firms which thought REACH and CLP compliance was largely 'done' should think again. Experienced staff will be particularly valuable. The strategy is great news for consultants, testing laboratories and law firms and some businesses will need a lot of help with strategy, data generation and interpretation of their legal obligations.

The worlds of chemicals, climate change and the circular economy will interconnect

Although (to the concern of the chemicals sector) the strategy is more vague in this area than in its proposals for a "stronger" legal framework, it is clear that the direction it wants the chemical industry to move in is ensuring that chemicals are not only safer, but also help grow the circular economy and use less energy to manufacture. The concept of "safe and sustainable chemicals", which is shorthand for this, may not be written into legislation but it lies behind the strategy's promises of financial assistance and support for improving the industry's skills base, especially for SMEs and start-ups.

How policy makers square the circle of competing political goals will be interesting to see. Trade-offs will have to be made in some cases between a chemical's safe use and its energy intensity or effect on materials recycling. Some of the strategy's objectives may conflict with others in the Commission's updated circular economy action plan or 2030 climate target plan. But look out for more references to recycling and energy in risk management measures or approvals for substances.

Not only will the strategy ensure the long-term future for EU regulatory affairs teams (and service providers in this space), it is also good news because it will mean there is greater need for your voice and expertise within your own organisations as colleagues in product design, EHS and sustainability strategy are drawn into this trade-offs debate.

➤ **Products**

- Meeting on omnibus amendments for several ecodesign regulations

Source: [European Commission](#)

The Ecodesign and Energy Labelling Committee of the European Commission held a [meeting](#) on 10 November to discuss draft regulations with regard to ecodesign requirements for servers and data storage products, electric motors and variable speed

drives, refrigerating appliances, light sources and separate control gears, electronic displays, household dishwashers, household washing machines and household washer-dryers and refrigerating appliances with a direct sales function.

- **Sustainable products initiative consultation closed, feedback available**

Source: [European Commission](#)

The Consultation of the European Commission on the Sustainable Products initiative is now closed and all feedback is available online. The initiative, which will revise the Ecodesign Directive and propose additional legislative measures as appropriate, aims to make products placed on the EU market more sustainable.

Consumers, the environment and the climate will benefit from products that are more durable, reusable, repairable, recyclable, and energy-efficient. The initiative will also address the presence of harmful chemicals in products such as:

- **CEN Standards on Plastics piping systems and ducting systems**

Source: [CEN](#)

The European Standardisation organisation CEN has ratified and published a new document, CEN/TC 155 - Plastics piping systems and ducting systems. This document provides a scheme for the assessment of conformity of PE products and assemblies for the rehabilitation of existing pipelines, in accordance with the applicable parts of ISO 11296, ISO 11297, ISO 11298, ISO 11299 and ISO 21225, and intended to be included in the manufacturer's quality plan as part of the quality management system and for the establishment of certification procedures.

- **Commissioner Reynders opens the International Product Safety Week 2020 and welcomes two new signatories of the Product Safety Pledge**

Source : [European Commission](#)

Today, Commissioner **Reynders** will open the International Product Safety Week 2020, during which two additional online marketplaces – [Bol.com](#) and [eMAG](#) will officially join the [Product Safety Pledge](#). By joining the pledge these companies are now committing to a faster removal of dangerous products from their marketplaces. Commissioner for Justice, Didier **Reynders**, said: *“Due to the coronavirus crisis, online purchases have surged and so*

have online scams. We cannot stand by and watch how fraudsters play on consumers' vulnerabilities. Only with online retailers on board, can we protect EU consumers and ensure products are safe. I am pleased to welcome Bol.com and eMAG as signatories of the Product Safety Pledge and I encourage other online retailers to follow their example. We need to keep up our efforts to improve consumers' safety, online and offline."

[Bol.com](#) and [eMAG](#) are joining seven other major online marketplaces – Alibaba (for AliExpress), Allegro, Amazon, Cdiscount, eBay, Rakuten France and Wish.com, who have already committed to a faster removal of dangerous products. The companies will make it easier for customers to notify dangerous products and remove them within two working days following notifications from EU Member State authorities. The International Product Safety Week 2020 will gather participants from all over the world in a virtual conference to discuss how to reinforce product safety globally. This year's event will focus on product safety during COVID-19 crisis and how to improve tracing and recall of dangerous products. More information on the International Product Safety Week is available [online](#) and the conference, together with Commissioner **Reynders'** speech, will be available on [EbS](#). Later this week, the Commission will also present its New Consumer Agenda, setting out its priorities and actions regarding consumer policy for the next years.

➤ **Water**

- **Update of the risk assessment of nickel in food and drinking water**

Source : [EFSA](#)

The European Commission asked EFSA to update its previous Opinion on [nickel](#) in food and drinking water, taking into account new occurrence data, the updated benchmark dose (BMD) Guidance and newly available scientific information. More than 47,000 analytical results on the occurrence of [nickel](#) were used for calculating chronic and acute dietary exposure.

An increased incidence of post-implantation loss in rats was identified as the critical effect for the risk characterisation of chronic oral exposure and a BMDL₁₀ of 1.3 mg Ni/kg body weight (bw) per day was selected as the reference point for the establishment of a tolerable daily intake (TDI) of 13 µg/kg bw. Eczematous flare-up reactions in the skin elicited in [nickel](#)-sensitised humans, a condition known as systemic contact dermatitis, was identified as the critical effect for the risk characterisation of acute oral exposure. A BMDL could not be

derived, and therefore, the lowest-observed-adverse-effect-level of 4.3 µg Ni/kg bw was selected as the reference point.

The margin of exposure (MOE) approach was applied and an MOE of 30 or higher was considered as being indicative of a low health concern. The mean lower bound (LB)/upper bound (UB) chronic dietary exposure was below or at the level of the TDI. The 95th percentile LB/UB chronic dietary exposure was below the TDI in adolescents and in all adult age groups, but generally exceeded the TDI in toddlers and in other children, as well as in infants in some surveys.

This may raise a health concern in these young age groups. The MOE values for the mean UB acute dietary exposure and for the 95th percentile UB raises a health concern for [nickel](#)-sensitised individuals. The MOE values for an acute scenario regarding consumption of a glass of water on an empty stomach do not raise a health concern.

Also see the [outcome of a public consultation](#) on the draft update of the risk assessment of nickel in food and drinking water