



EU Environment Report

April 2013

CHEMICALS

Commission adds eight substances to REACH authorisation list

On 18 April, the European Commission (“Commission”) adopted Regulation 348/2013 adding eight substances to the REACH authorisation list. There are now a total of twenty-two substances of very high concern (“SVHCs”) on the REACH authorisation list. SVHCs listed on the “authorisation list” require prior authorisation from the European Chemicals Agency before they can be used, placed on the market or imported into the EU after a certain date. The new substances which have been added to the list are trichloroethylene, chromium trioxide, acids generated from chromium trioxide and their oligomers (chromic acid, dichromic acid, oligomers of chromic acid and dichromic acid), sodium dichromate, potassium dichromate, ammonium dichromate, potassium chromate and sodium chromate.

Regulation 348/2013 can be accessed via the following link:
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:108:0001:0005:EN:PDF>

CLIMATE CHANGE

European Parliament opposes “backloading” proposal for ETS allowances

On 16 April, the European Parliament voted against a proposal which would have enabled the Commission to postpone the auctioning of 900 million EU emissions trading scheme allowances (“ETS”) from the years 2013-2015 to 2019-2020 – a proposal known as “backloading”. The aim was to curb the surplus of emission rights within carbon markets, which is considered to have a negative impact on competitiveness. The proposal was intended as a short-term solution preceding long-term structural measures. It was rejected by a narrow margin of 334 against 315 votes and sent back for further consideration to the European Parliament’s environment committee, which now has two months to find a compromise. The Commission must also decide whether to withdraw the proposal, but has been urged by the Irish Presidency of the EU to refrain from doing so.

The Commission’s press release is available via the following link:
http://ec.europa.eu/clima/news/articles/news_2013041602_en.htm

Council adopts decision on temporary derogation from the ETS Directive for intercontinental flights

On 22 April, the Member States in the Council adopted a decision confirming a temporary derogation from the ETS Directive. The effect of the decision is to defer the enforcement of the obligations on aircraft operators with regard to incoming

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and outgoing international flights under the ETS. This means that airlines will be temporarily exempt from the ETS requirement to report carbon emissions for flights between EU airports and third countries, and sanctions will not be imposed for failure to report. Meanwhile, the ETS Directive will continue to apply in full to intra-EU flights and flights between the EU and a number of closely-connected areas and territories, in particular EFTA states.

The full text of the Council's decision is available via the following link:
<http://register.consilium.europa.eu/pdf/en/13/st08/st08352-ad01.en13.pdf>

LIABILITY FOR ENVIRONMENTAL DAMAGE

Commission issues Green Paper on how to promote disaster insurance

On 16 April, the Commission published a Green Paper on the insurance of natural and man-made disasters, which contains its preliminary proposals on how to promote disaster insurance within the EU. The Green Paper, which was launched alongside a new EU strategy on climate adaptation, forms part of a package intended to strengthen Europe's preparedness against both natural and man-made disasters. The paper notes that the general uptake on disaster insurance is low in a number of Member States and raises concerns about the negative impact that uninsured losses can have on the economy. In the Green Paper, the Commission suggests compulsory disaster insurance as one way to address these concerns.

The Commission's Green Paper is available via the following link:
http://ec.europa.eu/internal_market/consultations/2013/disasters-insurance/docs/green-paper_en.pdf

Proposal to strengthen French environmental liability law being discussed in upper house of French parliament

On 17 April, the text of a legislative proposal concerning the liability of companies or individuals for environmental damage was discussed during a committee meeting of the French senate. The proposal aims to enshrine in law the conclusions of last year's ruling from the Court of Cassation, the highest court in France, which called for a strict application of the "polluter pays" principle. The proposal would strengthen national legislation implementing Directive 2004/35 on environmental liability by stressing that polluters should be liable for any type of damage they cause, regardless of whether they are at fault or of the magnitude of the incident. The current legislation only covers cases of "significant" environmental damage.

The press release of the Senate can be accessed via the following link (only available in French):
<http://www.senat.fr/presse/cp20130418.html>

PRODUCTS

Member States agree on new rules regarding imports of genetically modified food and animal feed

On 4 April, the Member States agreed a new Regulation which makes provision for reinforced requirements on the authorisation for imports of genetically modified food and animal feed. The key objectives of the Regulation are to reinforce and improve the authorisation process of genetically modified food and feed and to clarify the requirements for submitting a request. The Regulation includes an obligation for companies to carry out a 90-day feeding test on rodents for single GMO events, before authorisation is granted. The Regulation will enter into force 20 days after publication in the Official Journal of the EU. It foresees a transitional period of 6 months for companies to comply.

This newsletter briefly describes EU environment developments.

Due to the general nature of its content, this newsletter is not and should not be regarded as legal advice.

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The Commission's press release is available via the following link:
http://europa.eu/rapid/press-release_MEX-13-0403_en.htm

Commission publishes its environmental footprinting package

On 9 April, the Commission released its "environmental footprinting package". The package aims to create a single market for green products within the EU by facilitating the sales of green products within the EU through the availability of comparable information on their environmental performance. At present, companies have to conduct environmental assessments based on different national rules. The Commission hopes that a single footprinting method will enable mutual recognition of a product in all Member States, once it has been authorised in one Member State. The new package sets out two methods for measuring environmental performance throughout the lifecycle of a product – the Product Environment Footprint and the Organisation Environment Footprint – and a Commission Recommendation on the use of these methods to Member States, companies, private organisations and the financial community. The Commission will soon launch a three-year testing period and is looking for volunteer companies for its trials.

Full details in relation to the Commission's environmental footprinting package are available via the following link:
<http://ec.europa.eu/environment/eussd/smgp/index.htm>

JRC study finds levels of pollutants in sewage sludge are too low to present a measurable risk

On 8 April, the Commission's Joint Research Centre ("JRC") published a new study. The study confirms preliminary results presented last year, concluding that there is no need for a revision of the current EU limits on pollutants in sewage sludge used as fertiliser contained in Directive 86/278 on the protection of the environment. The study comes in the context of the Commission's general review of EU waste laws. According to the JRC, in the 63 samples which were tested, the levels of certain chemical elements and organic compounds, such as pesticides, caffeine and diclofenac, were too low to present a measurable risk. The JRC maintains that further tests should be conducted to lessen the risk of experimental error.

The full text of the JRC's study can be accessed via the following link:
http://ec.europa.eu/dgs/jrc/downloads/jrc76111_lb_na_25598_en_n.pdf

OTHER

ECJ rules that endangered habitats must not be damaged for development purposes, except for reasons of overriding public interest

On 11 April, the European Court of Justice ("ECJ") handed down its judgment in Case C-258/11, ruling that endangered habitats may not be damaged, even slightly, for development purposes, except for reasons of overriding public interest. The case could have wide implications for the enforcement of Directive 92/43 on the conservation of natural habitats and of wild fauna and flora habitats.

In 2008, the Irish planning board granted permission for a motorway that would lead to the loss of 1.47 hectares of a 270-hectare area of limestone pavement, a priority habitat. Following an appeal, the Irish Supreme Court referred questions to the ECJ, asking which criteria should be applied in assessing whether a project would have an adverse effect on the integrity of such a site under Directive 92/43 and whether the "precautionary principle" should be incorporated into this assessment.

In reply to those questions, the ECJ stated that Directive 92/43 must be interpreted as meaning that a plan or project not directly connected with or necessary to the management of a site will adversely affect the integrity of that

site, if it is liable to prevent the lasting preservation of the constitutive characteristics of the site. It also confirmed that the precautionary principle should be applied for the purposes of that appraisal. As a result, the authority must refuse to authorise the plan or project being considered where uncertainty remains as to the absence of adverse effects on the integrity of the site.

The full text of the ECJ's judgment is available via the following link:

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=136145&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=175106>

The Months Ahead

29 – 31 May

Save the PLANET: 4th Conference and Exhibition On Waste Management, Recycling, Environment for South-East Europe, Sofia , Bulgaria

<http://www.environmental-expert.com/events/save-the-planet-4th-conference-and-exhibition-on-waste-management-recycling-environment-for-south-ea-12789>

29 – 31 May

9th SEE Congress & Exhibition on Energy Efficiency & Renewable Energy (EE & RE), Sofia , Bulgaria

<http://www.environmental-expert.com/events/9th-see-congress-exhibition-on-energy-efficiency-renewable-energy-ee-re-12790>

30 May

Water Risk & Finance 2013, London, UK

<http://www.environmental-finance.com/events/view/64>

3 – 4 June

UNIDO ATMOSphere Technology Summit 2013, Vienna, Austria

<http://www.environmental-expert.com/events/unido-atmosphere-technology-summit-2013-14138>

3 – 5 June

Air Pollution 2013, Siena, Italy

<http://www.environmental-expert.com/events/air-pollution-2013-13510>

4 – 6 June

Renewable Energy World Conference & Expo Europe – 2013, Vienna, Austria

<http://www.environmental-expert.com/events/renewable-energy-world-conference-expo-europe-2013-4262>

4 – 7 June

Environmental dynamics, public policies and local practices, Toulouse, France

<http://w3.geode.univ-tlse2.fr/interactions2013/>

6 – 10 June

The 2013 Conference on Communication and Environment, Uppsala, Sweden

<http://environmentalcomm.org/node/83>

11 June

Traffic Interventions for Environmental Management 2013, Newcastle upon Tyne, UK

<http://www.environmental-expert.com/events/traffic-interventions-for-environmental-management-2013-13296>

12 June

Air Quality & Health 2013, Newcastle upon Tyne, UK

<http://www.environmental-expert.com/events/air-quality-health-2013-13294>

13 – 14 June

Is your Environmental Policy EU-Compliant?, Maastricht, The Netherlands

<http://www.eipa.eu/>

13 – 16 June

9th International Recycling, Environmental Technologies & Waste Management Trade Fair 2013, Istanbul, Turkey

<http://www.environmental-expert.com/events/9th-international-recycling-environmental-technologies-waste-management-trade-fair-2013-13741>

17 – 18 June

Responding to Environmental Complexity, London, UK

http://cordis.europa.eu/search/index.cfm?fuseaction=events.document&EV_RCN=35435

17 – 19 June

AEBIOM European Bioenergy Conference 2013, Brussels, Belgium

<http://www.environmental-expert.com/events/aebiom-european-bioenergy-conference-2013-13619>

18 June

Rohs and REACH International Compliance, Stratford-upon-Avon, UK

<http://www.environmental-expert.com/events/rohs-and-reach-international-compliance-13928>

19 – 21 June

Energy and Sustainability 2013, Bucharest, Romania

<http://www.environmental-expert.com/events/energy-and-sustainability-2013-13515>

25 – 26 June

Shale Gas World UK 2013, Manchester, UK

<http://www.environmental-expert.com/events/shale-gas-world-uk-2013-13753>

25 – 28 June

2nd International Conference Energy & Meteorology (ICEM) 2013, Toulouse, France

<http://www.icem2013.org/>

26 – 28 June

Global Energy Systems 2013, Edinburgh, UK

<http://globalenergysystemsconference.com/>

27 June

UK Energy Summit 2013, London, UK

<http://www.environmental-expert.com/events/uk-energy-summit-2013-13532>

4 – 7 July

ECSEE 2013 - The European Conference on Sustainability, Energy & the Environment, Brighton, UK

<http://ecsee.iafor.org/>

10 – 12 July

12th Global Conference: Environmental Justice and Citizenship, Oxford, UK

<http://www.inter-disciplinary.net/critical-issues/ethos/environmental-justice-and-global-citizenship/call-for-papers/>

18 July

Introduction to Implementing an Environmental Management System, Manchester, UK

<http://www.environmental-expert.com/events/introduction-to-implementing-an-environmental-management-system-13925>

25 July

Waste Management Evaluation Seminar, Stratford-upon-Avon, UK

<http://www.environmental-expert.com/events/waste-management-evaluation-seminar-13926>

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