

Sustainability Outlook European Union

June 2022



European Parliament demands the right to legislative initiative.

The European Parliament adopted a [resolution](#) addressed to the European Council, the Council, the Commission and the governments and parliaments of the Member States, calling for revision of the EU Treaties to give the Parliament a right of initiative in the legislative process.

Currently, and contrary to the constitutional systems in most of its Member States, the EU Treaties provide that the European Commission, which is the EU executive, is responsible for planning, preparing and proposing new EU legislation (including environmental legislation). They grant an (only) **indirect right** of legislative initiative to the European Parliament, which may request the Commission to submit any appropriate proposal. If the Commission does not do so, it must inform the European Parliament of the reasons.

The resolution notes that only **one-third** of the Parliament's legislative and non-legislative initiatives up to 2019 can be considered **successful**. It adds that granting the Parliament its own right of initiative, at least in those policy fields in which the Parliament is empowered to enact legislation as co-legislator (e.g. environment), would rebalance the EU's legislative process. This would not exclude the possibility of the Commission keeping the monopoly regarding proposals in areas such as budget.

European Commission updates legislative and policy timeline until the end of 2022.

The Commission [made available](#) an updated tentative agenda of its College of Commissioners. It provides the indicative planning when it intends to adopt legislative and policy documents until December 2022. It foresees two important legislative packages in the area of environmental policy. The **Zero Pollution Package** (planned for 26 October) includes:

- (1) The revised list of surface and groundwater pollutants
- (2) The revision of EU ambient **air quality** legislation (Directives 2004/107 and 2008/50) (please see [Sustainability Outlook October 2021](#))
- (3) The review of the **Urban Wastewater Treatment** Directive 91/271
- (4) The revision of the Classification, Labelling and Packaging of Chemicals Regulation 1907/2006 (**CLP Regulation**) (please see [Sustainability Outlook August 2021](#))

The **Circular Economy Package II** (planned for 30 November) includes:

- (1) The proposal for a regulation on substantiating **environmental claims** (please see [Sustainability Outlook December 2021](#))
- (2) A policy framework for bio-based, biodegradable and compostable plastics (please see [Sustainability Outlook January 2022](#))
- (3) The review of the Packaging and Packaging Waste Directive 94/62 (**PPWD**)
- (4) Proposal on measures to reduce the release of **microplastics** (please see [Sustainability Outlook February 2022](#))
- (5) The "**right to repair**" initiative (please see [Sustainability Outlook January 2022](#))

Also, on 30 November, the Commission plans to adopt its proposal on **carbon removals** certification (please see [Sustainability Outlook February 2022](#)).

The Commission had planned to adopt most of these proposals earlier, but it had to delay them.





European Parliament agrees its position for ETS and CBAM after some controversy.

The European Parliament [agreed](#) on its negotiating position on the **revision of the Emissions Trading System (ETS) and the new Carbon Border Adjustment Mechanism (CBAM)**. This comes after the majority of in plenary [rejected](#) the [final report](#) of its Committee on the Environment, Public Health and Food Safety (ENVI) (please see [Sustainability Outlook January 2022](#)) on the revision of the ETS, as amended, in a contentious vote by 340 votes against, 265 votes in favour and 34 abstentions, earlier in June. The plenary amendments to the report would have delayed the phase-out of free greenhouse gas (GHG) emission allowances. The now adopted position wants that **free allocation in the ETS sectors covered by the CBAM** will be phased out from 2027 and until 2032, when Parliament wants the CBAM to be fully implemented – three years earlier than foreseen by the Commission. The Parliament also wants to increase the Commission’s overall ambition to reduce emissions in the ETS sectors from 61% to 63% by 2030, compared to 2005. This is to be achieved through further one-off cuts to the EU-wide quantity of allowances in circulation, in combination with an increase in the annual reduction of allowances to 4.4% until the end of 2025, rising to 4.5% from 2026 and to 4.6% from 2029. On top of this, a separate new emissions trading system (ETS II) for fuel distribution for commercial **road transport and buildings** should be established by 2024 – one year earlier than proposed by the Commission. The Parliament’s position would also **include municipal waste incineration in the ETS** from 2026 (as already foreseen in the ENVI Committee Draft Report, please see [Sustainability Outlook May 2022](#)).

The Parliament also adopted a [negotiating position](#) on the **CBAM** itself (please see [Sustainability Outlook March 2022](#) and [Sustainability Outlook July 2021](#)). In addition to the products proposed by the Commission (iron and steel, refineries, cement, organic basic chemicals and fertilisers), Parliament wants it to **also cover organic chemicals, plastics**, hydrogen and ammonia.

The European Parliament is now ready to start legislative negotiations (so-called trilogues) with the Council as the other co-legislator, with a view to amending and adopting the proposals of the Commission.

Council adopts a position on ETS and Commission to consider including waste incineration from 2031.

The Council [adopted](#) its General Approach (i.e. its final negotiating position) on the **revision of the Emissions Trading System (ETS)** (please see [Sustainability Outlook January 2022](#)).

It agrees with the Commission's overall ambition of reducing GHG emissions by **61%** by 2030. The Council also agreed to a one-off reduction of the overall emissions ceiling by 117 million allowances (so-called "**re-basing**") and to the increase in the annual reduction rate of the cap by 4.2% per year ("**linear reduction factor**").

The [text](#) put forward for vote does not include municipal waste incineration in the ETS. Rather, it wants to task the Commission with assessing the impact and feasibility of including municipal waste incinerators in the ETS from 2031, taking into account the effects on the internal market, potential distortions of competition, environmental integrity as well as alignment with the objectives of the Waste Framework Directive 2008/98, among other things.

The Council agreed to create a new, **separate ETS for the buildings and road transport sectors**. The new ETS would apply to distributors that supply fuels for consumption in these sectors. However, the start of the auctioning and surrendering of obligations would be delayed by one year compared to the Commission proposal **to 2027 and 2028, respectively**, contrary to the position of the Parliament proposed. The emissions reduction trajectory and the linear reduction factor set at 5.15 from 2024 and 5.43 from 2028 would remain as proposed by the Commission.

The Council agreed with the proposal to **end free allowances for the sectors covered by the Carbon Border Adjustment Mechanism (CBAM)** (please see [Sustainability Outlook March 2022](#) and [Sustainability Outlook July 2021](#)) progressively, over a 10-year period **between 2026 and 2035**. The reduction would be slower at the beginning and accelerate at the end of this 10-year period.

Now that the Council has agreed its positions on the proposals, negotiations with the European Parliament can begin with a view to amending and adopting the final law.

European Parliament Committees object to labelling gas and nuclear activities as sustainable.

The Committees for Economic and Monetary Affairs (ECON) and the Environment, Public Health and Food Safety (ENVI) [adopted a draft motion for a resolution](#) of the European Parliament objecting to the European Commission classifying **nuclear and gas energy** as sustainable (please see [Sustainability Outlook February 2022](#)). The draft motion received only a narrow majority (76 votes to 62 votes with four abstentions), indicating how controversial the topic is.

The Commission proposal for a **Taxonomy Complementary Delegated Act (CDA)** sets conditions for considering certain nuclear and gas activities as **transitional activities** under Taxonomy Regulation 2020/852. The regulation defines transitional activities cannot yet be replaced by technologically and economically feasible low-carbon alternatives, but do contribute to climate change mitigation and have the potential to play a major role in the transition to a climate-neutral economy. The CDA includes three natural gas activities and three nuclear activities, subject to certain technical screening criteria (TSC).

The objection recognises the role of certain economic activities (such as gas and nuclear) in guaranteeing stable energy supply during the transition to a sustainable economy, but concludes that the TSC proposed in the CDA do not respect the Taxonomy Regulation, their legal basis. It also refers to the negative response to the CDA given by the Commission's advisory Platform on Sustainable Finance (please see [Sustainability Outlook January 2022](#)).

The resolution is scheduled for a vote by the plenary of Parliament in July. Council and Parliament have until 11 July to object and effectively veto the Commission proposal. If neither of the institutions objects with the requisite majority (in the case of the Parliament 353 members), the CDA will enter into force.





European Commission updates the definition of nanomaterial.

The Commission issued a non-binding recommendation on the definition of nanomaterial. It replaces the definition from 2011.

The recommendation defines “nanomaterial” as a **natural, incidental or manufactured material consisting of solid particles** that are present, either on their own or as identifiable constituent particles in aggregates or agglomerates, and **where 50% or more of these particles in the number-based size distribution** fulfil at least one of the following conditions:

- a) One or more external dimensions of the particle are in the size **range 1 nm to 100 nm**
- b) The particle has an **elongated shape, such as a rod, fibre or tube**, where two external dimensions are **smaller than 1 nm and the other dimension is larger than 100 nm**
- c) The particle has a **plate-like shape, where one external dimension is smaller than 1 nm** and the other dimensions are **larger than 100 nm**

In the determination of the particle number-based size distribution, particles with at least two orthogonal external dimensions larger than 100 µm need not be considered.

According to the Commission, the changes in the definition were developed following a comprehensive review, and should allow easier and more efficient implementation, but will not significantly affect the scope of identified nanomaterials. The new definition should be used in EU and national legislation, policy and research programmes. The new definition is one of the deliverables of the Commission under the [Chemical Strategy for Sustainability \(CSS\)](#), in which the Commission committed to **reviewing it and ensuring its coherent application across legislation**.

Nanomaterials are subject to specific regulatory scrutiny, both under general chemicals legislation (REACH Regulation 1907/2006) and by sectoral legislation addressing their use in certain products, such as biocides, cosmetics or food.

ECHA highlights progress on substances of concern and the need for harmonised classification.

In the fourth report under its [Integrated Regulatory Strategy](#), the European Chemicals Agency (ECHA) [stated](#) that it has sped up its work. Compared to the last annual report (please see [Sustainability Outlook May 2022](#)), ECHA focuses on the progress made regarding the objectives and on the overall efficiency of its actions, specifically on **regulatory actions for substances of concern**. ECHA highlights a **steep increase in substances for which a harmonised classification and labelling (CLH)** has been proposed. The number has tripled in 2021 compared to 2020. In particular, ECHA concluded follow-up evaluations of 210 substances that were subject to either compliance checks or testing proposal examinations. From these substances, 44 were proposed for CLH (almost three times more than in 2020), and one was proposed for further assessment of persistent, bioaccumulative and toxic properties. The increase in identification of new CLH candidates is a result of a group of 29 resin and rosin acid derivatives being recommended for CLH due to their reproduction toxicity. With CLH often being a prerequisite for moving ahead with further regulatory measures, authorities must dedicate sufficient resources and start preparing proposals for these substances to avoid creating a regulatory backlog, according to ECHA. ECHA recommends (*inter alia*):

- That Member States ensure adequate resources to **initiate regulatory risk management**, where necessary
- **Intensifying collaboration** between **Member States and ECHA** so they can discuss and agree on prioritisation
- Using the European Commission’s **Restrictions Roadmap** (please see [Sustainability Outlook April 2022](#)) to identify candidates for restriction
- That industry is **more proactive in updating their registrations**, as the information they provide is the basis for the assessment of regulatory needs

Authorities of three Member States consider restricting skin sensitisers in consumer products.

Three EU Member States (**France, Germany and Ireland**) [called](#) on stakeholders to submit information on **skin sensitisers** in consumer products, initiating the preparatory stage of a REACH process that may result in regulatory action, **possibly including a broad group restriction**. The call for evidence focuses on the presence of skin sensitising substances in mixtures with **consumer uses**, including information on known safe uses. Its stated objective is to gather information on:

- **The sectors, and type of uses/applications** concerned
- **Measures currently in place** (e.g. changed formulation, reduction of concentration, specific packaging and conditions of use) to **minimise consumer exposure**
- Experience regarding **substitution efforts, availability and costs of alternatives** or **reasons for non-substitution**
- The **potency of the skin sensitising substances** and their technical functions in the mixtures
- Safe use of consumer products
- Epidemiology of allergic contact dermatitis and other health-related information, including health costs
- Analytical methods to detect the presence of skin sensitising substances in mixtures
- The call for evidence will be open until 30 September 2022.

European Commission considers EU audit system to enforcement chemicals regulation.

Consultancy Milieu presented the results of a study it conducted for the Commission on a comprehensive audit system of both **regular and targeted controls on REACH compliance** to Competent Authorities for REACH and CLP (CARACAL). This system would be part of a newly established **European Audit Capacity (EAC)**. The Commission had committed to such a regime to ensure compliance with, and enforcement of, the EU chemicals legislation, in particular REACH, in its [Chemical Strategy for Sustainability \(CSS\)](#). Consultancy Milieu assessed for the Commission the possible form of EAC and what benefits it might bring. The aims of this study are:

To **identify how to best establish an EAC to ensure compliance** with and effective national control and enforcement systems for REACH throughout the EU

To **develop standards and criteria** to control and enforcement systems

The regime could **improve enforcement** by auditing Member States' official control systems and their operation against common standard criteria.

On the options how to implement such a system, Milieu considered **minimal controls**, which would consist of *ad hoc* targeted inspections, as well as a **comprehensive audit system** based on regular, general audits covering all aspects of enforcement. Milieu concluded that the broader the coverage of the audit system and the wider the representativeness of Member States audited, the more effective it will be.





European Commission discusses tensions with IP rights under “one substance, one assessment”.

As foreseen by the Commission in its [Chemicals Strategy for Sustainability](#), “one substance, one assessment” will ensure that the **initiation and priority setting of the safety assessments are done in a coordinated, transparent and, to the extent possible, synchronised manner**, taking into account the specificities of each sector. During an [information exchange on the “one substance, one assessment”](#) concept, the Commission said that it would aim to **address current barriers to data exchange**, including **intellectual property (IP) rights**. Examples of tensions with IP rights include **copyright**, as study summaries, applications for authorisation and renewal under REACH could be considered subject to copyright. At the same time, there is not a general exception for public authorities that would allow them to use this data without infringing existing copyrights of the owners of regulatory data. For instance, ECHA may not reuse data, if is subject to copyright, used under the framework of the Biocidal Product Regulation for an authorisation under REACH, or send it to the European Food Safety Authority (EFSA) for the purpose of approval of an active substance in a pesticide. Another aspect of tension when it comes to IP rights and data management in the chemicals sector relates to **database rights**. Once the database holder has made a substantial investment in the database, extraction or reuse of parts of the database is prohibited.

The Commission also highlighted that interested parties in chemical safety assessments are not always aware of what information is available and about where and how to access it and use it. To solve this obstacle, it discussed an upcoming proposal on data generation that will include:

- The introduction of a data generation mechanism that would enable authorities to fill information gaps
- A requirement on business operators and laboratories to notify EFSA about the name, scope of study, planned study and completion date when they are commissioned to undertake a study
- The development of a common data platform
- An omnibus regulation amending provisions regarding data handling and reporting in individual pieces of chemicals legislation is expected for **Q2 2023**.

EU co-legislators agree to reduce limit values for POPs in waste.

The Council and European Parliament reached a provisional agreement on the revision of Annexes IV and V of the Persistent Organic Pollutants (POPs) Regulation. According to the [press release](#) of the Council, both co-legislators agreed to include PFOAs in the regulation. The maximum limit value was set at **1 mg/kg for Perfluorooctanoic acid (PFOA)** and its salts and at **40 mg/kg for PFOA-related compounds**. As far as **Dioxins and furans** are concerned, their limit value would currently be set at **5 µg/kg**, applying from 1 January 2025. The limit value is set at **1mg/kg for Perfluorohexanesulfonic acid (PFHxS)** and its salts and at 40mg/kg for PFHxS-related compounds. PFHxS were not included in the European Commission’s original proposal – it was the co-legislators’ idea to include them. On Hexabromocyclododecane (**HBCDD**), the co-legislators agreed on a reduction of the limit value to **500mg/kg** at the entry into force of the regulation. For all these thresholds, the provisional agreement foresees a **review clause** for the Commission to possibly propose a further reduction **five years** after the entry into force.

Additionally, the Commission will be tasked with considering whether it is necessary to amend EU waste legislation in order to ensure that waste containing any POPs exceeding the limits is classified as hazardous and to put forward a legislative proposal within three years after entry into force. The draft European Parliament report already included a (not legally binding) recital to commit the Commission to revise Decision 2014/955 on the list of waste (please see [Sustainability Outlook March 2022](#)).

The text of the provisional agreement is not yet available. The provisional agreement is expected to be put for a final vote in Parliament after the summer and then to be formally adopted by the Council.

EU Court dismisses claims on damages for wrong classification of CTPHT.

The European Court of Justice (ECJ) upheld General Court judgments dismissing damages actions against the European Commission ([joined Cases C-65/21 P, C-73/21 P to C-75/21 P](#)).

The judgments under appeal concerned damages for alleged **wrong classification of the substance** coal tar pitch high temperature (CTPHT) as **toxic to the aquatic environment**. ECHA intervened in support of the Commission (please see [Sustainability Outlook September 2021](#) and [Sustainability Outlook February 2022](#)). The companies claimed to have suffered loss as a result of the erroneous classification of that substance as hazardous to the aquatic environment. Such an erroneous classification would be the result of a manifest error of assessment by the Commission. The companies asked to set aside the judgments and to refer the cases back to the General Court for reconsideration.

In its judgment of 13 June 2022, the **European Court of Justice dismissed the appeals in their entirety**. The court followed the reasoning of the General Court, which held primarily that the Commission's **manifest error of assessment was excusable because of the complexity of classifying a substance** and the difficulty of interpreting the summation method rule. The ECJ also agreed with the finding of the General Court that, therefore, the error committed by the Commission does not give rise to the non-contractual liability of the EU.

European Commission releases new Blue Guide on the implementation of EU product rules

The Commission [said](#) that the [2022 Blue Guide](#) is designed to allow better understanding of EU product rules and facilitate their uniform application in the Single Market. Since its initial publication in 2000, the Blue Guide has become a major reference document. This new version builds on previous editions and reflects recent developments in legislation, in particular the adoption of Market Surveillance Regulation 2019/1020. For example, it updates previous guidance on what constitutes “**placing on the market**”, dating from 2016. It also addresses **distance sales** and making products available on the market subject to physical or software modifications/updates.

UK agency issues UK REACH Consolidated Report and Work Programme for 2022-2023

The report [released](#) by the UK Health and Safety Executive (HSE) outlines the relevant UK REACH activities for the last calendar year. The Work Programme sets out the activities that the HSE will carry out to operate UK REACH in 2022/23 (supported by the Environment Agency (EA)) in the following categories:

- Industry-initiated (e.g.: account management of new registrations, testing proposed evaluations, helpdesk, enforcement),
- Demand-led (e.g.: compliance check, recommendation for additions to the Authorisation List),
- Government-initiated (substance evaluation, Regulatory Management Options Analysis, restrictions, identification of substances of very high concern (SVHCs)), and
- Others, like maintaining the website guidance, managing stakeholder engagement and scientific advice, training and development of HSE and EA staff).

We [previously reported](#) that National Audit Office (NAO) expects that the HSE (which is the ‘Agency’ under UK REACH) will need four years before it is able to regulate chemicals post-Brexit, partly on account of staffing issues. The Work Programme also includes an annex allocating enforcement responsibility for UK REACH between different bodies.





UN countries agree on further regulating e-waste shipments and banning harmful chemicals.

This month, the Conferences of the Parties to the Basel, Rotterdam and Stockholm Conventions (BSR COPs) took place in Geneva. The signatories of these international treaties (which include the EU and its Member States) [agreed](#) on the following:

- COP-15 of the **Basel Convention** on the Control of Transboundary Movement of Hazardous Waste and Their Disposal decided to [amend](#) Annexes II, VIII and IX to ensure that all transboundary movements of electrical and electronic wastes (**WEEE**), whether hazardous or not, are subject to the **prior informed consent** of the importing state and any state of transit. The changes will come into force in **2025**. Prior to this change, prior consent is only required for hazardous WEEE. These amendments are similar to those adopted in 2019 for the plastic waste stream. COP-15 also adopted **guidelines** on the management of **mercury waste, lead-acid batteries waste** or waste containing persistent organic pollutants (**POPs**). Based on an [EU proposal](#), it will also start work on the management of batteries other than lead-acid batteries.
- COP-10 of the **Stockholm Convention** on Persistent Organic Pollutants (POPs) agreed on a global ban of perfluorohexane sulfonic acid (**PFHxS**), its salts and PFHxS-related compounds by adding them to Annex A of the Convention. COP-10 also urged parties to take actions to eliminate the use of polychlorinated biphenyls (**PCB**) in equipment by 2025, and to achieve the environmentally sound management of relevant PCB wastes by 2028.
- COP-10 of the **Rotterdam Convention** on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade decided to make decabromodiphenyl ether (**decaBDE**), and perfluorooctanoic acid (**PFOA**), its salts and PFOA-related compounds subject to the prior informed consent procedure. Both substances are already listed under the Stockholm Convention (which requires countries to eliminate their production and use), but some exemptions apply and certain specific uses are allowed temporarily.

The EU is expected to implement these changes by amending the following EU legislation: the Waste Shipment Regulation 1013/2006, the POPs Regulation 2019/1021 and the Regulation 649/2012 concerning the export and import of hazardous chemicals, respectively.

European Commission concludes evaluation of food contact materials legislation.

The Commission has [published](#) the evaluation of the Food Contact Materials (FCM) Regulation 1935/2004, which it formally started in November 2017, along with the opinion of its Regulatory Scrutiny Board. The Commission found that the FCM Regulation is broadly regarding scope, definitions and traceability rules in achieving its objectives. The specific rules for **plastic FCMs** (which are under Commission Regulation 10/2011) largely ensured the safety of starting substances used to manufacture FCMs, based on a transparent EU risk assessment and authorisation process, but were technically complex and their implementation resource intensive. As the main **deficiencies** of the legislation, the evaluation points at the **lack of specific rules** for FCMs other than plastic, the **inability** to demonstrate **compliance**, the unavailability of information in the supply chain, the challenges in enforcement and the lack of prioritisation of the most hazardous substances. Also, the current legislation and approaches are largely **incompatible with current trends** in the switch from “materials synthesised from traditional chemistry such as polymers to more novel or natural, sustainable alternatives.” However, the Commission also notes that “[o]ngoing changes in the design of materials and their composition including **bio-based and biodegradable** materials **present increasing** challenges within the constraints of the current approach. Other novel developments, such as those that incorporate nano-technology and **chemical recycling**, are presently insufficiently addressed.”

The Commission will conduct an open public consultation on the revision of the FCM Regulation 1935/2004 later this year and is [expected](#) to adopt the proposal for a revised regulation in Q3 2023. In that proposal, it may address some of the deficiencies described above.

European Commission consults on sustainable food systems initiative.

The Commission [opened](#) a public consultation on a sustainable food systems framework initiative. This initiative aims to mainstream sustainability in all EU policies related to food and strengthen the EU food system.

It asks about policy measures similar to those provided in the roadmap from September 2021, including, for example, establishing **sustainability principles and objectives**, and setting general **minimum standards** for foods produced or placed on the EU market, which could be linked to environmental and social aspects (including legitimate and proportionate requirements for imported food products). The consultation also asks about establishing sustainability **labels** for food products, i.e. information on the nutritional, **climate, environmental**, animal welfare and social aspects, and which form these should have (voluntary/mandatory; for all products/only EU products). It also addresses **public procurement** of food served in schools and public institutions.

The survey is open until 21 July 2022. The Commission plans to adopt the proposal (whose legal form is not yet determined) in Q4 2023. Then, it will send the proposal to the co-legislators (Council and European Parliament) for amendment and adoption.





European Parliament Committee adopts report on product safety rules.

The Internal Market Committee of the European Parliament (IMCO) [adopted](#), by a large majority, its [report](#) on the proposal for a regulation on general product safety (please see [Sustainability Outlook July 2021](#)). It seeks to amend the proposal of the Commission for a new regulation repealing the General Product Safety Directive 2001/95. The new rules aim to ensure that all kinds of products in the EU comply with the highest safety requirements.

- It provides clearer rules for economic operators, in particular **online marketplaces**. They must designate a single point of contact for consumers for consumer communications on product safety, which may be then redirected to the proper service unit of an online marketplace. Also, in line with the recently agreed Digital Services Act, online marketplaces must establish the single contact points to communicate with the competent surveillance authorities. These authorities can oblige online marketplaces to remove access to illegal listings of dangerous goods. Online marketplaces must then act within one working day from the receipt of the order. They must inform, where possible, the relevant economic operator of the decision to remove or disable access to the illegal content.
- Economic operators may additionally make the information they are required to provide available in **digital format** by means of electronic solutions, such as QR or data matrix codes, clearly visible on the product, on its packaging or in a document accompanying the product. That information must be in a language easily understood by the consumers, as determined by the Member State in which the product is made available.
- There is a **greater emphasis on accessibility for persons with disabilities** to the database and website of the Safety Gate, publicly available communication channels of manufacturers, etc. In addition, when assessing whether a product is safe, the risks for **vulnerable consumers**, such as children, older people and persons with disabilities, as well as the different impact on health and safety of different **genders**, must be taken into account.

Once the plenary of the Parliament and the Council adopt their negotiating mandate, inter-institutional talks between both institutions could then start with a view to adopt the new regulation. The proposal provides that it will apply six months after its entry into force.

France implements extended producer responsibility for construction products and materials.

The French government [published](#) an [order](#) on the specifications of the **producer responsibility** organisations (PROs), as well as individual systems, **for building and construction products and materials** (BCPM). The order entered into force the day after its publication. It is based on [Decree 2021-1941](#) and the [2020 AGECE Law](#) on the circular economy. These French laws have already provided that **extended producer responsibility (EPR) applies to producers and importers of BCPM**. PROs have had to be accredited since 2022, but the producers' concrete obligations will apply from 2023. Producers may comply with their EPR obligations individually or collectively. The order provides the following obligations for PROs (and individual systems), among others:

- **Eco-modulation** of fees: PROs must develop and propose **premiums/penalties** based on the **presence of hazardous substances** likely to limit the reuse, **recyclability** or incorporation of **recycled content** (among other environmental criteria) to the Ministry of Environment, after consultation with the PRO members. These **eco-modulated fees will apply** to BCPM placed on the market **from 2024**.
- PROs must achieve the collection, recovery and recycling **targets** for broad categories of construction and demolition waste (simply put, mineral waste and non-mineral waste). In addition, it provides a reuse target for non-mineral construction and demolition waste (2% in 2024, and 4% in 2027), and additional recycling rates per materials (cement, metals, wood, plaster, plastics and glass).
- PROs must carry out different **studies**, such as (1) one to qualify and quantify persistent organic pollutants (POPs), brominated flame retardants (BFRs) and other substances whose use is prohibited; and (2) study of the waste streams and review of the collection, recycling and recovery targets within three years of the PRO's approval.
- PROs must set up a system for the **traceability** of waste.

The order also provides specifications on how PROs must deploy the **network of collection facilities** for construction and demolition waste (including the collection zones for BCPM, which can be reused).

The French EPR scheme for construction products and materials might provide an example for how to introduce EPR for construction products in EU legislation. The **Commission might consider EPR** as an option, together with setting targets for preparing for re-use and recycling construction and demolition waste and its material-specific fractions. The Waste Framework Directive tasks the Commission with considering such targets **by the end of 2024**.

UK authorities publish guidance to prepare for extended producer responsibility (EPR).

Under EPR, packaging producers will be made responsible for the full costs of managing the waste from the packaging that they place on the market. The UK DEFRA and Environment Agency [guidance](#) sets out **who** needs to take action in respect of the new EPR scheme, **what** needs to be done depending on size of organisation and status as a parent/group/subsidiary, and details **how** to capture packaging data depending on the type of packaging concerned. **Obligated operators must collect the correct packaging data from 1 January 2023**. The guidance on [producer responsibilities in respect of packaging waste](#) (first published in 2014) and the packaging section of the [producer responsibility regulations](#) have been updated accordingly.





Slovenia suspends rules on extended producer responsibility (EPR).

The Slovenian Constitutional Court has [reportedly](#) suspended the implementation of provisions of the new environmental protection act that deal with **EPR**. The implementation of those provisions is postponed, pending the court's final decision. The challenged provisions include those that allow only one organisation to be in charge of the joint fulfilment of EPR obligations for each waste stream as a non-profit activity from 2023. The applicants, which include at least one German waste management company, argue there is no substantive reason to transform the system into a non-profit scheme.

EPR is a policy tool widely used in the EU (and mandatory for certain waste streams), to help achieve recycling and other waste-related targets. Under an EPR scheme, producers must bear financial responsibility or financial and organisational responsibility for the management of the waste stage of a product's life cycle.

If you are interested in UK as well as EU environment, safety and health law, procedure and policy, please take a look at our [frESH blog](#).

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