

frESH Law Horizons

October 2020



Changes to COVID-19 regulations ahead of national lockdown and differing regulations in devolved administrations.

There were a number of further changes to COVID-19 restrictions in October. At the start of the month, [regulations](#) were introduced in England as to the responsibilities for hospitality businesses, including obligations to display notices about the requirements for wearing face coverings. Later in the month, further regulations were passed to implement a tiered system of restrictions to apply regionally as directed from time to time, classified as [medium](#) (tier 1), [high](#) (tier 2) and [very high](#) (tier 3). Each of those regulations set out the restrictions that applied in the relevant region(s), including restrictions on gatherings, which applied to individuals (which were also relevant to those businesses that facilitate social gatherings, including hospitality premises) and closures and restrictions applying directly to businesses in some tiers (including 10 p.m. to 5 a.m. closure for most hospitality businesses from tier 1 upwards, service at tables again from tier 1 upwards and closure of certain businesses entirely in tier 3, including pubs and bars selling alcohol without substantial food). However, as we head into November, the Prime Minister has [announced](#) a further lockdown in England from Thursday 5 November 2020 through to early December, which will mean the closure of non-essential shops, leisure and entertainment venues and the closure of hospitality premises (except for takeaways). Other workplaces (including construction sites and manufacturing businesses) are expected to remain open. We await the detailed regulations, which will be voted on on Wednesday. In the meantime, Scotland's [five tier system](#) comes into force on 2 November, [firebreak restrictions](#) are in force in Wales until 9 November and [additional restrictions](#) are in place in Northern Ireland until mid-November.

Health and Safety Executive (HSE) and Sefton Council conduct joint spot checks. The HSE issued a [press release](#) that indicates that inspections have been carried out across various sectors to check they are following government guidelines. As it is anticipated that some businesses will remain open during any period of lockdown, it is likely that spot checks of such businesses will continue, probably based on an assessment of risks, including in relation to regional infection rates.

Proposed changes to laws on using mobile phones while driving. The government has [announced](#) a consultation that proposes that using a mobile phone while driving (for any purpose) will be illegal. This will include use for taking photos, playing games, using the internet/apps, or scrolling through a playlist (or similar), as well as current restrictions on using for calls or texts. In connection with driving at work, employers may wish to review and update training and any relevant employee policy to the extent that it does not already address such matters. The [consultation](#) closes on 17 January 2021.

Court of Appeal stays second prosecution on substantially the same facts. In [R v Wangige \[2020\] EWCA Crim 1319](#), the defendant had pleaded guilty to failing to stop after a road accident (which resulted in the death of a pedestrian), as well as failure to report an accident, use of a motor vehicle with equipment likely to cause danger or injury (by reference to the tyres, windscreen glass, headlight mounting and other defects) and using a motor vehicle without a valid test certificate. However, following the start of an inquest into the death, the police commissioned further expert evidence that determined that the defendant was travelling faster than had originally been calculated. The Court of Appeal found that the second proceedings should be stayed, because the proceedings were on substantially the same facts and there was an absence of special circumstances (a second expert report was not considered to sufficiently constitute special circumstances of itself). The decision reaffirms this principle that a second prosecution is precluded, absent special circumstances, on substantially the same facts (also expressed in earlier decisions such as the 1997 case of [Beedie](#), which involved a prosecution by the HSE for breaches of health and safety law, followed by a prosecution for manslaughter, which the Court of Appeal determined should have been stayed).



Food Standards Agency (FSA) to hold webinars on risk analysis and UK authorisation of substances in food and feed after Brexit. The [FSA announcement](#) relates to its role after the end of the transition period in conducting activities previously undertaken by the European Food Safety Authority (EFSA) in relation to the authorisation of products such as additives, flavourings, genetically modified foods, food contact materials and novel foods (which are described by the FSA as “regulated products and processes”). The webinars will take place on 12 and 16 November 2020.

Court confirms that for indictable only matter, full credit of one-third for guilty plea only applies where a definite and irrevocable plea is indicated in the magistrates’ court. In [R v Hodgkin \[2020\] EWCA Crim 1388](#), the defendant indicated that a guilty plea was “likely” at the initial stages (in the magistrates court) and pleaded guilty at the plea and trial preparation hearing (PTPH). The sentence was reduced by 25% to take into account of the plea at the PTPH. The sole ground of appeal was that the appellant should have been afforded full credit of one-third for indicating in the magistrates’ court, when he was sent for trial, that it was a “likely guilty plea”. The Court of Appeal decided that this did not satisfy the test in the Sentencing Council’s Reduction in Sentence for a Guilty Plea Definitive Guideline, effective from 1 June 2017.

Covert Human Intelligence Sources (Criminal Conduct) Bill 2020 and draft Code of Practice published. The government has submitted [the Bill](#), which sets out the legal basis on which Covert Human Intelligence Sources (CHIS), or undercover operatives, may be authorised to participate in conduct, which would otherwise be a criminal offence, to Parliament for its first reading. It will amend the Regulation of Investigatory Powers Act 2000 (RIPA) to allow various public authorities to authorise CHIS where necessary for protecting national security, preventing or detecting crime or disorder, or protecting the economic wellbeing of the UK. This might include agencies such as the Home Office, the Department of Health, HMRC, the Serious Fraud Office, the Environment Agency, the Gambling Commission and the Food Standards Agency (so will not be restricted to the police, security agencies and the National Crime Agency). Authorisations must be proportionate. A draft revised [code of practice](#) regarding the use of CHIS has also been published, and a [factsheet](#) summarising the change and key issues.

Consultation on Sentencing Guidelines for Modern Slavery Offences and UK Annual Report on Modern Slavery published. The Sentencing Council [consultation document](#) includes a link to the draft [guideline](#). The proposal for section 1 and 2 offences (offences under the Modern Slavery Act 2015 relating to slavery, servitude and forced or compulsory labour and relating to human trafficking) is to include consideration of culpability and harm in determining the starting point for the sentence; aggravating and mitigating factors; and totality. It also includes a proposed “step seven” to provide specific guidance to sentencers on making Modern Slavery Reparation Orders against a background of no reparation orders historically being made, possibly due to confusion over the circumstances when they could be used. The wording proposed is that, in all cases, the court must consider whether to make a compensation order and/or other ancillary orders. Attention will specifically be drawn to the following orders, as being the most relevant in modern slavery cases: slavery and trafficking prevention orders; slavery and trafficking reparation orders; and forfeiture. The [UK annual report on modern slavery](#) has also been published this month, the report identifying modern slavery as a complex, harmful and largely hidden crime.

Not guilty verdict in first prosecution by Financial Conduct Authority (FCA) for destruction of documents. A [press release](#) issued by the FCA indicates that they were disappointed by the verdict of Southwark Crown Court. Destroying documents that a defendant knew or suspected would be relevant to an investigation is an offence under the Financial Services and Markets Act 2000.



Fine of £2 million from Pubs Code Adjudicator. The government has [reported](#) on the fine, the first of its kind, after the adjudicator found the company had committed 12 breaches. The Pubs Code Adjudicator is responsible for enforcing the statutory Pubs Code, which regulates the relationship between all pub companies owning 500 or more tied pubs in England and Wales and their tied tenants. As set out in the [investigation report](#) itself, though arbitrations generally only bind the parties in relation to their specific agreements, the outcomes of awards can clearly have wider implications insofar as they provide an interpretation of the law and principles to be followed. In some cases, the findings of awards may have considerable importance for the industry. The level of fine is likely to be viewed by many as substantial, particularly at a time when most hospitality businesses are under considerable pressure amid ongoing closures and restrictions connected with COVID-19.

The trustees of the IFRS (International Financial Reporting Standards) Foundation [have published a Consultation Paper](#) to assess demand for global sustainability standards. They also discussed whether, and to what extent, the Foundation might contribute to the development of such standards. The IFRS Foundation is the organisation behind IFRS Standards, the widely used financial reporting standards. Amid heightened focus on environmental, social and governance (ESG) matters, the Trustees are seeking stakeholder input on the need for global sustainability standards. The Consultation Paper sets out possible ways the Foundation might contribute to the development of global sustainability standards by broadening its current remit beyond the development of financial reporting standards.

Government publishes energy performance certificate (EPC) [action plan](#). The plan has been issued in response to the government's 2018 call for evidence on the use of EPCs. The action plan builds on the views expressed as part of the call for evidence. For each priority area, the government has set out actions that it will take forward to ensure EPCs are fit for the future. There will be a further consultation on amendments to the EPC after the end of the Brexit transition period.

The Good Law Project [announced](#) that the government will review the Energy National Policy Statements (NPSs). This follows a judicial review challenge by the Good Law Project and others against the government for failing to review the Energy NPSs, principally to take account of the government's commitment to net zero by 2050. The government has said that the NPSs will not be suspended during the review and the Good Law Project has indicated that it will continue with its judicial review challenge unless they are suspended pending the outcome of the review.

A number of new or updated guidance documents have been issued relating to ESH regulation in Great Britain (GB) from 1 January 2021, including:

- Department for Food and Rural Affairs (DEFRA) guidance on [upholding environmental standards](#) from 1 January 2021 (in particular confirming that some of the institutions change, but the legal framework of environmental standards does not, and it refers to the establishment of the Office for Environmental Protection (OEP))
- DEFRA [guidance on industrial emissions standards \("best available techniques"\)](#) from 1 January 2021 (in particular confirming that existing BAT documents will be applicable, and there will be powers for new/amended EU BAT documents to be adopted, although that would not be automatic and the government will put in place a process for determining future UK BAT Conclusions for industrial emissions)
- DEFRA [guidance on plant protection product](#) regulations, and [HSE guidance](#) on the same subject
- DEFRA guidance on [trading and moving endangered species protected by CITES](#) and [Trading CITES-listed specimens through UK ports and airports](#) from 1 January 2021
- DEFRA [guidance on fluorinated gases and ozone depleting substances](#)
- DEFRA [guidance on developing GMOs](#) from 1 January 2021
- Health and Safety Executive (HSE) [guidance on PIC](#) regulation (prior informed consent for export of certain hazardous chemicals)





- HSE [guidance on biocides](#)
- HSE [guidance on classification, labelling and packaging](#) of chemicals
- HSE [guidance on REACH](#) (with new sections for actions for different types of roles in the supply chain) and updated DEFRA [guidance on REACH](#) (with new guidance on grandfathering, tonnage deadlines and how UK downstream users can notify the HSE)
- Office for Product Safety Standards (OPSS) [guidance on timber trading rules](#)

(Under the Northern Ireland Protocol, the EU legislation on these matters will continue to apply in Northern Ireland). These guidance documents are essential reading for anyone with businesses affected by this legislation.

Draft [REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020](#) were laid before Parliament.

The draft regulations reflect the delay to the registration deadlines that were announced in guidance in September (up to six years from October 2020, depending upon tonnage and hazard classification). They also contain detailed provisions to give effect to the Northern Ireland Protocol and turning what everyone had started to call UK-REACH into GB-REACH. The conversion of REACH and the transitional measures only apply in GB and not in Northern Ireland, where EU REACH still applies. Additional provisions are added in relation to protected Northern Ireland imports, requiring similar notifications to be made to HSE as for the “DUIN” process, prior to substances being imported from Northern Ireland. A large number of other EU Exit statutory instruments have been updated this month, primarily to implement the requirements of the Northern Ireland protocol, but the REACH legislation remains to most controversial of these. The parliamentary [Committee on the Future Relationship with the European Union](#) recently heard evidence from the chemical sector expressing significant concerns about the separate post-exit chemical regulation in GB, and in the European Parliament, the head of the EU chemical association CEFIC has been quoted as describing the scheme as “[simply put, a waste of time](#)”.

Environment Agency (EA) issues new [guidance](#) on land contamination risk management (LCRM).

The EA has updated and replaced this guidance. It expects anyone who is managing the risks from land contamination to use and follow LCRM to identify and assess if there is an unacceptable risk, assess what remediation options are suitable to manage the risk, plan and carry out remediation, and verify that remediation has worked. LCRM can be used in a range of regulatory and management contexts, including voluntary remediation, planning and under the contaminated land regime.

The government publishes updated guidance on circular economy measures. The EA guidance on the [separate collection of waste paper, plastic, metal or glass](#) and [Hazardous waste: segregation and mixing](#) have both been updated to reflect the requirements of the Waste (Circular Economy) (Amendment) Regulations 2020.

Regulations on air quality related measures for domestic solid fuels and wood have been made. The majority of the obligations in the [Air Quality \(Domestic Solid Fuels Standards\) \(England\) Regulations 2020](#) come into force until 1 May 2021. They ban pre-packaged house coal sales from 1 May 2021 (with a year to use stocks), with loose coal sales via coal merchants given two further years to be stopped. Also from 1 May 2021, wood sold in single units under 2m3 (loose stacked) must be certified with a moisture content of 20% or less (with small foresters given a further year to comply). Finally, and again by 1 May 2021, all manufactured domestic solid fuels must be certified with a sulphur content below 2% and must comply with a smoke emission limit of less than five grams per hour (requirements that currently only apply in designated smoke control areas). Local authorities are tasked with enforcing these measures and can impose fixed penalties of £300 for breaches.





The government **responds** to the Committee on Climate Change's (CCC) latest annual **report**. The report assesses the government's climate change mitigation activity. The response document sets out the progress the government has made towards meeting UK carbon budgets, its plans for further policy action to deliver on the commitments in the [Clean Growth Strategy](#) and its response to the recommendations in the CCC's report on reducing emissions. The most high-profile announcement is that the government will publish a net zero strategy in the lead up to the Glasgow COP26 international climate talks in November 2021, setting out its vision for transitioning to a net zero economy.

The government tabled **amendments to the Environment Bill**. These related to the OEP's enforcement powers and nature conservation. The Environment Bill has been significantly delayed in its progress through parliament, first by COVID-19 and, more recently, by a raft of Brexit-related legislation that needed to be passed quickly. The Bill is expected to [return to parliament on 3 November](#) to be considered by the House of Commons' Public Bill Committee, which is due to report on the Bill by 1 December 2020. This will be followed by the third reading in the House of Commons and then it will go to the House of Lords. In connection with these new proposed amendments, DEFRA has updated its factsheets on the [OEP](#) and [conservation](#) aspects of the Bill. These explain that the proposed OEP amendments include a power for the Secretary of State to issue guidance to the OEP regarding its enforcement policy, and to align environmental review with judicial review, it makes changes so that environmental reviews will be heard in the High Court instead of the Upper Tribunal. The conservation-related amendments place a new duty on local planning authorities to co-operate with Natural England and other public bodies in establishing and operating species and protected sites strategies.

European Court of Justice (ECJ) rules on waste status of sewage sludge used for energy recovery. In the case of [Sappi Austria Produktions-GmbH & Co. KG v Landeshauptmann von Steiermark](#), the ECJ held that sewage sludge (from municipal wastewater treatment) that was incinerated for energy recovery purposes should not be considered as waste if the end-of-waste conditions in the Waste Framework Directive (WFD) were already achieved before it was incinerated. This would have important ramifications for whether the incineration plant needed to be regulated as a waste incinerator or not. The ECJ referred this back to the national court to determine on the facts whether the WFD end-of-waste test was met (namely that the sewage sludge met the statutory limit values for pollutants and that its incineration would not lead to overall adverse environmental or human health impacts). The ECJ stated that it was relevant, in that assessment, to consider that the heat generated by the incineration was re-used in a paper mill and that the process provided a significant benefit to the environment by substituting recovered material for natural resources and enabling the development of a circular economy.

The EA updates aspects of guidance on noise and vibration. The guidance on how to [control and monitor emissions for your environmental permit](#) now clarifies when an applicant for an environmental permit, or an operator with an environmental permit has to produce a noise and vibration management plan. The guidance on [risk assessments for your environmental permit](#) now includes guidance on identifying the risks from noise and vibration and a link to the Environment Agency's pre-application service.

Details published of enforcement undertakings accepted by the EA between 1 June and 30 September 2020. As well as the usual collection of undertakings relating to packaging waste non-compliance, and undertakings from water utilities companies for pollution incidents, we are starting to see an increase in the number of undertakings offered by non-utility companies for environmental permitting offences. The largest of these was £100,000 from Barclays Bank in connection with an oil pollution incident in Sunderland.

The EA has used powers to block access to land in Northumberland to prevent the illegal dumping and burning of waste. A court order is in place prohibiting anyone from entering or depositing waste on the site, to reduce the impact on the local community while the criminal investigation into activity at the site is ongoing. It is the first time these EA powers (called a restriction order) have been used in the North East. Anyone entering the land, or tampering with the lock or notice, will be committing a criminal offence.



The EA has added two new regulatory position statements (RPS) allowing medium combustion plant (MCP) activities to be carried on while applications for environmental permits are being determined. [RPS 243](#) relates to when you can operate a specified generator or medium combustion plant without a permit while the EA determines your bespoke permit application, and [RPS 244](#) relates to burning clean waste wood biomass without a permit in a section 5.1 Part B MCP, or specified generator (SG), while the EA determines your permit application. The EA has also extended its positions statement on excavated waste from utilities installation and repair ([RPS 211](#)), which was due to expire at the end of October, to 31 January 2021.

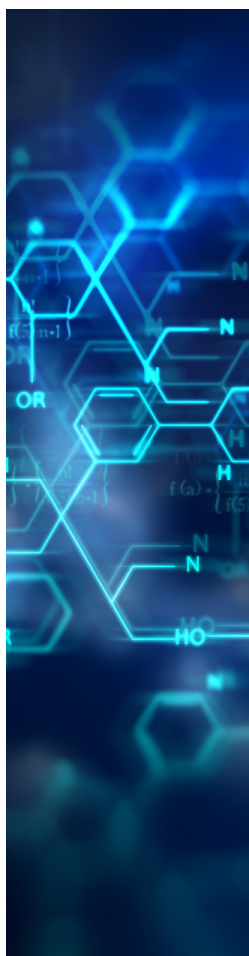
The EA has also issued new RPS on delaying certain permitting tasks due to COVID-19 restrictions. [RPS C20](#) deals with when you can delay and reschedule some emissions to air and water monitoring and other environmental monitoring because of COVID-19 restrictions, and [RPS C21](#) with when you can delay submitting data, reports and other records required by your environmental permit because of COVID-19 restrictions. These replace RPS C7 and RPS C10, which expired on 30 September 2020. Previous agreements to use RPS C7/C10 will not cover non-compliances arising after 30 September 2020. If operators obtained the EA's agreement to operate under RPS C7/C10, they will obtain a new agreement from the EA to operate under RPS C20/C21.

DEFRA consults on 2020 WEEE compliance fee methodology. This is the latest annual consultation on whether DEFRA should set a compliance fee (for 2020) and, if so, which of the proposed methodologies it should select. Under the Waste Electrical and Electronic Equipment (WEEE) Regulations 2013, annual collection targets are imposed on producer compliance schemes (PCSs). The Secretary of State has discretionary powers to approve a compliance fee methodology as an alternative form of compliance, payable by PCSs that fail to achieve their collection target. This consultation contains two proposals for a compliance fee methodology and administrator for 2020, and is open until 9 November 2020.

British Standards Institute (BSI) publishes its first standard for biodegradability of most littered form of plastic. BSI references the global issue of plastic pollution and littering, and the development of technological innovations that allow polyolefins to degrade in the open air on land. According to BSI, a coalition that included industry, government and academic experts drafted [PAS 9017:2020](#) to quickly disseminate such additive technologies across the plastic packaging value chain. This new standard specifies the requirements of polyolefinic materials enhanced with technology that imparts biodegradability in an open-air terrestrial environment. It also specifies the chemical analysis and the numerical limits required to meet compliance with the PAS at the end of each stage of testing.

The Natural Capital Committee (NCC) published its [final response to the second 25-Year Environment Plan Progress Report](#). The NCC's overall assessment of progress against the 25-year plan, across seven natural assets (atmosphere, freshwater, minerals and resources, marine, soils, land and biota) concludes that the government is not on course to achieve its objective to improve the environment within a generation. Among its recommendations are the need for a natural capital baseline assessment, and for the role of the OEP to be expanded in the Environment Bill.

Waste containers [returned from Sri Lanka](#). A consignment of 21 containers of waste, exported to Sri Lanka several years ago, has arrived back in England after reportedly being found to contain illegal materials described as mattresses and carpets that had been exported for reuse. The EA press release states that EA enforcement officers will now investigate to seek to confirm the types of waste shipped and who exported it, with a view to possible enforcement action being taken.





The European Commission adopts a 2021 Work Programme and announces “Fit for 55 Package” of climate and energy initiatives.

The annual [Work Programme](#) presents new and continued policy initiatives that the Commission wants to advance until the end of the following year. This year’s Programme is “designed to make Europe healthier, fairer and more prosperous, while accelerating its long-term transformation into a greener economy, fit for the digital age,” [according](#) to the Commission. Under the “headline ambition” [European Green Deal](#), which the Commission launched in December 2019, it presents initiatives in the following fields: Sustainable and Smart Mobility, Biodiversity and Toxic-free Environment Package, Circular Economy Package and a “Fit for 55 Package.” That Package is meant to deliver the objectives of its 2030 Climate Target Plan communication, which was accompanied by an amended proposal of the European Climate Law to give effect to a new “at least” 55% greenhouse gas (GHG) emission reduction target for 2030 (please see [frESH Law Horizons September 2020](#)).

The European Parliament adopts a negotiation position on the proposed European Climate Law.

The Parliament’s amendments [call](#) for a GHG reduction of 60% in 2030 and an interim target for 2040, to be proposed by the Commission following an impact assessment. The Commission would also have to make a legislative proposal, by 31 May 2023, with a trajectory on how to reach carbon neutrality by 2050 at EU level. The Council is expected to adopt its position on it before the end of the year. The institutions will then enter into legislative negotiations to adopt the final version of the law.

European Commission starts update of the EU emissions trading system (ETS).

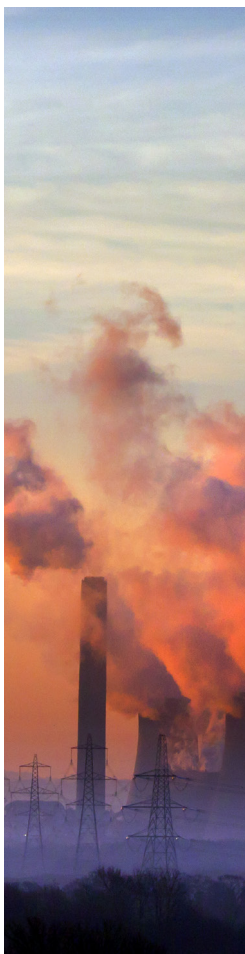
In this context, and implementing its 2021 Work Programme (please see above), the Commission [published](#) the inception impact assessment (i.e. plan) on the revision of the ETS. The Commission stated that it would review all relevant EU policies against the new, proposed 2030 target, including the ETS, and propose extending the ETS to new sectors of the economy, including shipping and possibly transport in general, as well as heating fuels. It would also review the ETS’ ‘market stability reserve’ for handling unused emissions allowances after three years of its operation. The inception impact assessment is open for comments until 26 November.

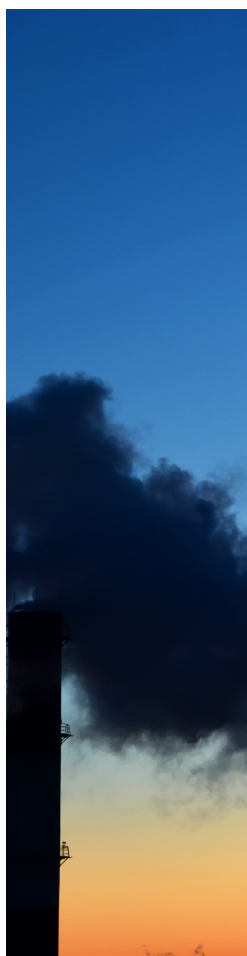
European Commission publishes Methane Strategy.

As expected (please see [frESH Law Horizons August 2020](#)), this policy document [sets out](#) future legislative and non-legislative actions to cut anthropogenic methane emissions in Europe and internationally, particularly for the energy, agriculture and waste sectors. One of the main priorities of the Strategy is to improve measurement, reporting and verification (MRV) of methane emissions from all sectors. Other key measures in the energy sector include introducing legislation to create an obligation to improve detection and repair of leaks in fossil fuel gas infrastructure and considering a legislative proposal to prohibit routine flaring and venting. The Commission will provide targeted support to accelerate the development of the market for biogas from sustainable sources such as manure or organic waste and residues, including the future gas market regulatory framework and the upcoming revision of the Renewable Energy Directive. In the waste and waste water sectors, the Commission will consider further action to improve the management of landfill gas, minimise its harmful climate effects and harness any of its potential energy gains during its review of the EU Landfill Directive in 2024. In parallel to the impact assessment on the EU Urban Waste Water Treatment Directive, starting in Q3 2020, the Commission will carry out a study to support the evaluation of the EU Sewage Sludge Directive. It will also carry out an additional study that will assess the scope for further action on GHG emissions, including methane from sewage sludge.

European Commission launches public consultation on the Packaging and Packaging Waste Directive (PPWD).

The Commission conducts this [consultation](#) as one of multiple forms of engagement with stakeholders in the context of the [review of the PPWD, which it formally started in June](#), during which it is also working on an impact assessment. The survey will be open until 6 January 2021. As confirmed in its 2021 Work Programme (please see above) the Commission has moved the planned adoption of a proposal for a revised PPWD from Q2 to Q4 of 2021. That proposal will then go through the ordinary legislative procedure, which involves the Council and European Parliament as the EU co-legislators.





European Commission adopts Chemical Strategy for Sustainability (CSS), heralding the most significant changes to EU chemicals regulation in 15 years. The Commission published a package of documents, including a [press release](#); [Q&As](#); the CSS [Communication](#) itself (25 pp.); an [Annex](#) (with an Action Plan/list of measures; 6 pp.); a [factsheet](#); a Staff Working Document ([SWD](#)) on reviews regarding chemical safety reports (CSR); information on articles and animal testing (46 pp.); a [SWD on stakeholder feedback](#) (21 pp.); a [SWD on PFAS](#) (22 pp.); a [SWD on "mixture effect"](#) (46 pp.); a [SWD on endocrine disruptors](#) (ED; 238 pp.); and an [executive summary of the ED REFIT](#) (4 pp.). The Commission stated that the CSS is the first step towards a zero pollution ambition for a toxic-free environment announced in the [European Green Deal](#) in October 2019. While the CSS fully recognises the fundamental role of chemicals for human wellbeing and for the green and digital transition of European economy and society, it acknowledges the urgent need to address the health and environmental challenges caused by the most harmful chemicals. We will be issuing a more detailed review of the CSS as a separate update.

The European Commission adopts new EU-wide deadlines for updates to REACH registrations. As expected (please see [frESH Law Horizons August 2020](#)) after representatives of all member states in the REACH Committee approved its draft, the Commission adopted [Implementing Regulation 2020/1435](#) on the duties placed on registrants to update their registrations under the REACH Regulation 1907/2006. It expands on Article 22(1), which requires registrants to update their dossiers "without undue delay". For the first time, the new implementing regulation will set time limits for these updates. Registrants will have three months to complete updates of a "more administrative nature" and to fulfil the requirements of REACH Annex VII or VIII following receipt of the study report, if updates include the generation of data. Deadlines of six, nine or 12 months, respectively, will apply to "more complex" updates, depending on the kind of update, such as those requiring the generation of data based on a testing proposal, changes to the chemical safety report (CSR) or the guidance on safe use. Where a member of a joint submission cannot make a particular update until the lead registrant has first updated it, the member will have nine months for the update of a CSR and three months for any other update, from the date when ECHA informs the lead registrant and the other members of the joint submission that the registration dossier, as updated by the lead registrant, is complete. In comparison to [earlier drafts](#), the Commission has significantly extended certain time periods. The regulation will enter into force on 11 December 2020 to allow registrants sufficient time to adapt to introduction of the deadlines.

European Chemicals Agency (ECHA) launches a database on substances of concern in products (SCIP). The industry can now submit information on substances of very high concern (SVHCs) in their articles. The revised EU Waste Framework Directive requires companies to do so as of 5 January 2021. Consumers and waste operators can access and use the data from February 2021 onwards, with a view to making recycling of products safer and improve information about dangerous chemicals in products. ECHA [said](#) that a system-to-system submission function would help companies submit notifications in an automated way. The database would also allow them to work together so they can submit notifications by referring to data that has already been submitted. For support, companies could consult the material published on ECHA's website or contact ECHA's helpdesk. ECHA will also conduct a [webinar on SCIP](#), including a demo of the tools and new features, on 19 November 2020.

European Commission publishes a roadmap on EU Action Plan Towards a Zero Pollution Ambition for air, water and soil. This Action Plan will aim to better prevent and remedy pollution from air, water, soil and consumer products. In particular, the Commission will focus on strengthening implementation, enforcing existing EU law, and consider the need to improve the existing EU health and environment rules by reviewing the evaluations and impact assessments relating to the pollution of air, water and the marine environment, as well as road transport, industrial emissions, waste, wastewater and noise pollution, among others. The Commission received 111 comments on the Roadmap. It plans to conduct an online public consultation of at least 13 weeks, starting in Q4 2020, and to adopt the Action Plan in Q2 2021.



European Commission adopts proposed regulation and communication on improving access to environmental justice under the Aarhus Convention. The legislative [proposal to amend Aarhus Regulation 1367/2006](#) as regards the application of the Aarhus Convention to EU institutions and bodies would expand the availability of the administrative review mechanism for NGOs. The mechanism is currently available for administrative acts of individual scope relating to environmental law (directly addressing a person, or where they can be distinguished individually as being affected). The amendment would broaden the definition of an administrative act and clarify that administrative acts do not themselves need to have an intended environmental purpose but could be subject to review if they contravene applicable provisions relating to the environment. The accompanying [communication on improving access to justice in environmental matters in the EU and its member states](#) highlights the vital role that member states play in this regard. It refers to the Commission's 2019 Environmental Implementation Review, which identified a series of systemic shortcomings concerning implementation of access to justice in environmental matters at the national level. The Commission asks member states to resolve problems faced by NGOs in obtaining legal standing to bring legal challenges on EU-related environmental issues and procedural hurdles, such as prohibitively high costs. Interested parties can submit their [comments](#) on the legislative proposal until 10 December 2020. It will then go through the ordinary legislative procedure involving the Council and European Parliament as EU co-legislators.

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