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UK

Scrap metal company is fined £2 million for corporate manslaughter. A Police and Health and Safety Executive (HSE) investigation found that staff at a site regularly breached health and safety procedures, including by jumping into metal recycling hoppers to clear blockages and walking on conveyor belts that fed the hopper, in full view of the managing director. In July 2017, a worker was killed when he walked into an area underneath a hopper that contained powerful engines for the conveyor belt that fed it. The machine had a broken gate, which was supposed to stop workers entering the area, and the machine should have been isolated before anyone approached it. The company pleaded guilty to corporate manslaughter and the police report that it was fined £2 million and its directors and health and safety managers were also fined. This case serves as a reminder that failing to challenge health and safety breaches by employees can lead to individual liability for health and safety breaches and corporate liability for manslaughter.

Two P&O ferries fail safety inspections and are detained. The UK Maritime Coastguard Agency (MCA) detained the first ferry and just days later detained a second ferry. The MCA stated that the failures related to crew familiarisation and training, vessel documentation and emergency equipment not functioning properly, indicating a failure of the implementation of a safety management system. The MCA enforces ship safety, and safety and welfare standards on ships, by survey and inspection, and is responsible for the implementation of the technical aspects of relevant maritime conventions. It has an Operational Working Agreement with the HSE and Maritime Accident Investigation Branch. These ferry detentions follow the recent media attention on P&O following the mass dismissal of staff without notice earlier this month. The MCA may have been concerned by the safety implications associated with there being entirely new crews on the ferries. This serves as a reminder to vessel operators and other higher-risk enterprises that other kinds of legal or regulatory scrutiny can lead to a focus on the business by safety regulators and government agencies, and that safety should be in the forefront of decision-making when managing commercial risks of all kinds.

Regulatory focus on construction sites in Birmingham. The HSE has sent inspectors out to construction sites in Birmingham, as the city prepares for the Commonwealth Games later this year with increased development. A HSE inspector commented, "The fatal injury rate in the construction sector is around four times the all-industry rate, while over 3,500 builders die each year from cancers related to their work, so this is a reminder to employers that there is no room for complacency or non-compliance." Whether the inspections will lead to major investigations (or even enforcement action) remains to be seen. However, we will provide further updates if they materialise.

Two new laws on economic crime are enacted. The Economic Crime (Anti-Money Laundering) Levy Regulations 2022 (Regulations) and the Economic Crime (Transparency and Enforcement) Act 2022 (Act) were enacted on 11 and 15 March, respectively. The Regulations will come into force on 1 April 2022 and relate to the economic crime (anti-money laundering) levy charged on any medium, large and very large entities regulated for anti-money laundering purposes, in accordance with the Finance Act 2022. The Act was expedited through Parliament following the Ukraine/Russia conflict and targets sanctions against oligarchs. It also creates a requirement for a Register of Overseas Entities, which foreign companies that own UK property must sign up to.



Brothers are ordered to pay £400,000 in proceeds of crime case prosecuted by the Environment Agency (EA). The brothers were previously convicted, one of trading fraudulently, and the other of theft, but have now received [proceeds of crime confiscation orders](#) as well. One brother was the sole trader director of a recycling company and had submitted fictitious claims for recycling electronic and electrical equipment and was paid £1.48 million by a producer compliance scheme. He received a custodial sentence of five years and four months, and has now been ordered to pay almost £300,000, which was his available amount. The other brother was ordered to pay £100,000, which was his full benefit and available amount. The case serves as a reminder that waste crime can not only lead to conviction and imprisonment, but also significant confiscation orders where the crime results in financial gain, which it often will in an environmental, health and safety, or licensing context.

Sentencing guidelines are amended from 1 April 2022. The Sentencing Council has announced that the changes will be introduced following its first annual consultation on miscellaneous amendments to its sentencing guidelines, [which we reported on previously](#). The amendments include requirements that a court must give reasons for not making a compensation order where it was available to be made, and that in all guidelines referencing confiscation orders under the Proceeds of Crime Act 2002 a description of the process for the making of an order will be applied.

Guidance on notifications of unsafe and non-compliant products is published. The Office for Product Safety and Standards (OPSS) has published [the guidance](#) for businesses supplying both consumer and non-consumer products in the UK. The guidance summarises the notification requirement of businesses regarding non-compliant products, or products that pose a risk to the health and safety of consumers that are enforced by the OPSS. The guidance extends to serious undesirable effects related to cosmetic products, hazardous substances, safety or compliance issues in relation to weights and measures, and other types of product.

Serious transgression by an expert and lawyers leads to revocation of permission to rely on the expert's evidence. In *Andrews and others v Kronospan Ltd* [2022] EWHC 479 (QB), the High Court determined that an expert could not be relied on to act in accordance with his obligations as an expert witness. Both the claimant and the defendant had instructed separate expert witnesses. However, the issues in the case were very technical and the two experts disagreed on many fundamental matters, including data collection methodology. The court ordered the experts to prepare a joint report setting out their agreement on certain issues and setting out areas of remaining disagreement, to narrow the issues in the hearing. The claimant's lawyers had provided comments on the drafts of the joint expert report to only one expert, and he had responded to them. Lawyers should not have input into a joint expert report, as this is only appropriate for the two experts and the experts' duty is to the court and not their client. The claimant admitted that this was a "serious transgression of the rules". The court, therefore, considered that it was appropriate and not disproportionate to revoke the claimant's permission to rely on the expert evidence. Although this case involved a civil claim, experts may be appointed in respect of prosecutions of regulatory matters, and similar principles are likely to apply.



Supermarket is fined £1 million for its first health and safety conviction. The press and specialist health and safety publications have reported that a customer of the supermarket suffered a shattered jaw when she drove her mobility scooter into baler twine that was stretched taut between two pillars in the car park. The twine had been attached by the store manager in an attempt to prevent vandalism to the car park queuing system that had been set up during the COVID-19 lockdown. The prosecutor on behalf of the local authority said that no risk assessment had been conducted on the twine. Reading Magistrates' Court found the supermarket guilty of exposing customers to danger and failing to make a suitable risk assessment contrary to the Health and Safety at Work etc Act 1974 and sentenced it to a fine of £1 million. Fines of £1 million or more are becoming increasingly common in the Magistrates' Court. Under the Sentencing Guidelines, a large organisation can receive a maximum fine of £10 million for health and safety offences (this is even higher for a very large organisation) and the Magistrates' Court has the power to issue an unlimited fine. The case also serves as a reminder that risk assessments must be reviewed and risks re-assessed where there has been a change to the risk environment. The placing of a strong and hard-to-see twine across a publicly accessible space would clearly fall within that category.

The Financial Conduct Authority (FCA) drops the first prosecution for failing to comply with a statutory notice under RIPA 2000. The FCA has discontinued the prosecution for failing to comply with a statutory notice under section 49 of the Regulation of Investigatory Powers Act 2000 (RIPA 2000). It said that there was no longer a realistic prospect of conviction after it had received and reviewed new information from the individual's previous lawyers that he had not been contacted when the statutory notice was issued. Enforcement authorities must demonstrate proper service and if a defendant has evidence to demonstrate that they were not aware of it, they cannot be convicted for failure to comply.

Consultation is opened on alcohol alternatives guidance. The Advertising Standards Authority is consulting on proposed guidance and a proposed new sub-section of rules in the Alcohol sections of the CAP and BCAP Codes that will deal with alcohol alternatives. Alcohol alternatives are alcohol products typically with 0.5% alcohol by volume or less, which are intended to replace alcoholic drinks in contexts where they would normally be consumed. The new rules would be read alongside new alcohol alternatives guidance. The proposals will lead to a stricter approach to advertising alcohol alternatives to ensure alcohol brands do not use such advertising to promote full-strength alcohol products indirectly. The consultation closes on 5 May 2022 and we will provide a further update when a response is published. Guidance on low alcohol descriptors is separately available. The description of what is a low alcohol drink is different in some countries. There are also various regulations around use of legal names of alcoholic drinks in the presentation and labelling of foodstuffs other than those drinks (for example, under spirit drinks regulations) and rules around nutrition claims relating to reduced alcohol content. This is a complex area of law and new guidance may be welcome.



Competition and Markets Authority (CMA) provides environmental sustainability advice to the government.

Following a public consultation, the CMA has published [advice](#) on how competition and consumer laws can help meet the UK's environmental goals. Under the current competition and consumer law frameworks, the CMA did not find any evidence to suggest firms are prevented from acting sustainably. However, it did find that more clarity around what is, and is not, legal would assist firms in achieving sustainability goals without the fear of breaking the law. The CMA believes there is some flexibility under the current framework in relation to restrictive agreements and the environmental benefits associated with them, and intends to bring forward more guidance in this area. In relation to consumer law, CMA suggested a number of actions such as amending consumer law to enable customers to make more sustainable choices. It has also recommended legislative changes to create standardised definitions for potentially misleading terms like "recyclable" and "carbon neutral" to help shoppers compare similar products. The CMA is also planning to establish a new Sustainability Taskforce to lead its work in this area and support the UK's transition to a low-carbon economy, bringing together colleagues from across the CMA and drawing on outside expertise. The taskforce will develop formal guidance, lead discussions with government, industry and partner organisations, and keep the case for legislative change under review. The CMA will launch at least one new market study in a net-zero-relevant market in the next financial year.

The HSE published its initial assessment of substances of very high concern (SVHCs) added to the EU REACH candidate list.

The HSE published its [initial assessment](#) of 11 SVHCs that were added to the EU REACH candidate list in 2021. The assessment considers whether these substances should also be identified as SVHCs under UK REACH. The "new" EU SVHCs include two substances that were added to the EU candidate list in January 2021, one substance still awaiting a decision by the EU on its SVHC status, and eight substances that the EU has proposed to identify as SVHCs. The initial assessment explains the HSE's reasons for prioritising four groups of substances, and why it considers the other substances do not need further action under UK REACH for the time being. This initial assessment provides a good indication of how UK policy on chemical regulation is potentially diverging from EU REACH post-Brexit.

175 nations endorse a resolution at the UN Environment Programme (UNEP) Assembly to end plastic pollution.

Heads of state, ministers of environment and other representatives from 175 nations endorsed a historic [resolution](#) at the UNEP Assembly to have a draft international legally binding agreement by 2024 to end plastic pollution. The resolution establishes an Intergovernmental Negotiating Committee (INC), which will start work this year, and should finalise a draft agreement by the end of 2024. It is anticipated that the legally binding instrument will reflect diverse ways to address the full life cycle of plastics, including design of reusable and recyclable products and materials. There will also be the need for enhanced international collaboration to facilitate access to technology, capacity building and scientific and technical cooperation. UNEP will convene a forum by the end of 2022 that is open to all stakeholders to share knowledge and best practices in different parts of the world. Upon completion of the INC's work, UNEP will convene a diplomatic conference to adopt its outcome and open it for signatures.

Environmental impact assessment (EIA) does not extend to greenhouse gas emissions from end use of product.

A recent [Court of Appeal case](#) dismissed the appeal against the High Court's decision to refuse an application for judicial review of planning permission granted for an onshore oil-drilling site. The appellant argued that the EIA should have considered greenhouse gas emissions that would be created when the oil produced by the site was used as fuel by consumers. The court held that the EIA should only consider emissions produced from the operation of the development project itself. This is one of the latest examples of claimants seeking (in this case, unsuccessfully) to use different parts of existing legal frameworks through a "climate change lens".



Friends of the Earth UK (FoE) and others are granted permission to apply for judicial review of the government's October 2021 UK Net Zero Strategy and Heat and Buildings Strategy. FoE and ClientEarth applied for permission in January 2022 (please see [frESH Law Horizons January 2022](#)). The Good Law Project had also filed a similar claim. It was confirmed on 1 March that the cases have been granted permission to proceed to the High Court, where they will all be heard together. The first hearing will take place on 8-9 June 2022, but the full hearing of the cases is likely to be towards the end of 2022.

Department for Environment, Food and Rural Affairs (DEFRA) responded to the consultation on amending the Civil Procedure Rules (CPR) to establish environmental review. This is the new review mechanism available to the Office for Environmental Protection (OEP) in relation to failures to implement OEP decision notices. Environmental review is a similar procedure to judicial review and the consultation response confirms that the new rules for environmental review will largely mirror the judicial review rules (Part 54 of the CPR), but adjusted to take account of where there are differences in the two remedies. In particular, DEFRA has indicated that there will be no specific pre-action protocol and no need to first apply for permission (which is a requirement for judicial review), and that applications will be made to the Planning Court. DEFRA is still considering whether to cap main party costs or whether to apply the same regime as the Upper Tribunal. The OEP is working on the first wave of complaints, some of which are leading to investigations, but no decision notices have been issued so far. Therefore, the first applications for environmental review are likely to still be some way off.

The EA published its consultation response on changes to the costs of water abstraction in England. This follows a consultation in August 2021. The EA has confirmed that it will bring in new charges connected to the volume of water abstracted, where it is abstracted from, and how much goes back into the environment. The new charging scheme applies from 1 April 2022. This change goes alongside the proposed [integration of water abstraction permitting into the environmental permitting regulations](#), although it has recently been announced that the response to the September 2021 consultation in relation to this has been delayed until summer 2022.

UK government publishes updated proposals on extended producer responsibility (EPR) for packaging. DEFRA and the devolved administrations published the [response to the second consultation on EPR for packaging](#). Under EPR, packaging producers should be responsible for the full end-of-life costs of the packaging that they place on the market, and the fees paid by producers should be subject to "ecomodulation", meaning that producers of less recyclable packaging should pay more. Under the EU circular economy initiative, EPR is supposed to begin from 2023, but the UK is no longer required to meet this timetable. The response confirms that EPR will be introduced in phases, starting in 2024, not 2023, and ecomodulation will not apply until 2025. The EPR scheme will also initially only include household packaging waste and packaging in local authorities' street bins, so will exclude commercial waste (which will remain subject to the current packaging producer responsibility regime). The response has also confirmed the proposal regarding mandatory labelling. The government intends to introduce mandatory recyclability labelling, using the Waste and Resources Action Programme (WRAP) "recycle now" mark. All packaging (except plastic films and flexibles) will have to be labelled as "recycle" or "do not recycle" by 31 March 2026 (plastic films and flexibles will have until 31 March 2027). The government intends to keep the packaging waste recycling note (PRN) and packaging waste export recycling note (PERN) system for the time being, pending the development of a new payment mechanism, and has also published a consultation PRN and PERN reform (see below).



Government publishes a consultation on PRN and PERN reforms. Alongside the EPR announcements, DEFRA and the devolved administrations are consulting on reform the PRN and PERN system to make improvements around reporting and timeframes, as well as to introduce a new “technical competence” test for compliance scheme operators and accredited reprocessors/exporters. It also looks at the interaction between the proposed deposit return system (DRS) and the PRN/PERN system.

Government consults on expanding the UK Emissions Trading Scheme (UKETS). In a consultation that is open until 17 June 2022, the Department for Business, Energy and Industrial Strategy (BEIS) and the devolved governments set out numerous proposals to expand and develop the UKETS. This includes changes to align the UKETS cap and trajectory with the government’s net-zero target, potential improvements to the current Free Allocation regime, proposals relating to review of UKETS aviation policy, and possible changes to the rules for sectors currently covered by the UKETS to ensure more greenhouse gas emissions are covered by the scheme. It includes specific proposals to expand UKETS to the domestic maritime sector and calls for evidence on including waste incineration and energy from waste. Operators currently affected by UKETS, or in any of the targeted future sectors, should consider the details of this consultation.

Department for Transport (DfT) and the Office for Zero Emission Vehicles issued a consultation on ending UK sales of new, non-zero emission buses, coaches and minibuses. The consultation seeks views on selecting a date between 2025 and 2032 for ending the sale of new non-zero emission buses (which have been the subject of an earlier consultation), and calls for evidence in relation to coaches and minibuses (which were not included in the previous consultation). The consultation is open until 21 May 2022.

Government publishes provisional UK common framework on best available techniques (BAT) for industrial emissions. DEFRA published a command paper setting out a provisional Framework Outline Agreement and Concordat between the UK government and devolved governments on developing and setting UK best available techniques (UK BAT) for emissions from industrial installations. Following a consultation in January 2021, this framework addresses pollution from industry, by reducing emissions to air, water and land. BAT standards for installations covered by the Industrial Emissions Directive were previously developed at EU level, but the UK needs to develop its own BAT standards post-Brexit. This new agreement sees the establishment of a UK BAT Standards Council, a regulators group and technical working groups for each new UK BAT standard.

HM Revenue and Customs (HMRC) updates its guidance and publishes force of law guidance for plastic packaging tax (PPT). Throughout March, HMRC has been making regular updates and additions to its collection of PPT guidance, ahead of the commencement date of 1 April 2022. HMRC also issued a new guidance document that has force of law. This addresses a range of administrative and technical issues, particularly in relation to what amounts to suitable/sufficient evidence of various matters, and records that need to be kept.



Task Force on Nature-related Financial Disclosures (TNFD) consults on a draft disclosure framework. The [TNFD framework](#) offers guidance for businesses to report on and measure improvements in relation to nature-related risks. It follows the approach of equivalent climate-related guidance developed by the Task Force on Climate-related Financial Disclosures (TCFD). TNFD released a beta version of its disclosure framework for consultation. This framework comprises guidance on definitions and concepts, practical guidance on nature risk and opportunity analysis, and disclosure recommendations, using the same four pillars as TCFD (governance, strategy, risk management, and metrics and targets). The TNFD plans to issue another beta version in June, and then further updated versions in October 2022 and February 2023. The final TNFD framework should be published in September 2023.

DEFRA consults on environmental targets for England under the Environment Act 2021. The act empowers government to set binding targets on environmental protection and requires DEFRA to set at least one long-term target (≥ 15 years) in each of four priority areas: air quality, water, biodiversity, resource efficiency and waste reduction. It also requires the setting of species abundance targets for 31 December 2030 and a shorter-term legally binding target to reduce PM2.5 in ambient air. Draft legislation is required to be laid for these targets by 31 October 2022. This is, therefore, the first consultation towards that deadline. It includes proposals for long-term targets on the required topics, and the PM2.5 and species abundance targets. The proposed PM2.5 target is in two parts, of which one is an annual mean concentration target of 10 micrograms per cubic metre ($\mu\text{g m}^{-3}$) across England by 2040 (the other part of the target is a population exposure reduction target of 35% by 2040, compared to 2018). Notably, the 10-microgram target reflects the previous World Health Organisation target, but this was updated in 2021 to 5 micrograms. In this respect, and others, the proposals have come in for criticism as not being ambitious enough. The consultation is open until 11 May 2022. On the same date, DEFRA also published a [nature recovery green paper](#), intended to support achievement of the species abundance target.

Government consults on its plans to reduce sewage discharges. In a week when [new data was published](#) showing that in 2021, there were more than 372,000 spill events from storm overflows, which release untreated sewage and rainwater into the environment to ease pressure on the system, the government issued a consultation on its plans to reduce this practice. Water companies will face strict limits on when they can use storm overflows and must completely eliminate the ecological harm any storm sewage discharges cause to the environment and significantly reduce discharges to protect public health. The proposed plan sets targets in relation to discharges and impacts, and outlines how water companies are expected to achieve these targets, including mapping their sewer networks, reducing surface water connections and engaging in long-term collaborative planning. It also refers to a new monitoring and reporting framework (enabled in the Environment Act) intended to significantly improve the ability of Ofwat and the EA to take enforcement action where needed.

DEFRA published new guidance on joint registration and data sharing under UK REACH. It sets out how businesses in Great Britain should share data and information on the same chemical substance and jointly submit that information to the “Comply with UK REACH” service. It explains substance groups, sharing data within your substance group, data sharing disputes, appointment of a lead registrant, submitting member dossiers and opting out of a joint data submission. This guidance has been awaited for some time, and affected companies will welcome this further clarity in relation to joint registration under UK REACH.



EA updates its enforcement and sanctions policy. The EA has updated Annex 2 of its enforcement and sanctions policy. This covers the EA's approach to applying civil penalties for climate change schemes. Changes have been made to Section D: Energy Savings Opportunity Scheme (ESOS) following a consultation carried out in late 2021.

Man guilty of exposing the public to asbestos receives a prison term. Between 2017 and 2019, an individual acted as a *de facto* director of Lincs Demolition Ltd in securing lucrative jobs in 43 towns and cities across England by marketing himself as a registered asbestos-removal specialist. He neither was a specialist nor registered. Having carried out work, waste asbestos was stored in hired storage containers, just 200 metres from a school and close to a Girl Guide centre. This was discovered and he abandoned those containers and moved to a different location, continuing to illegally store asbestos waste unsafely. The man pleaded guilty in the Crown Court to two counts of operating a waste operation without a permit, contrary to Regulations 12, 38(1)(a) and 41(1)(a) of the Environmental Permitting (England and Wales) Regulations 2016, and two counts of keeping or disposing of controlled waste in a manner likely to cause pollution or harm, contrary to Sections 33(1)(c), 33(6) and 157(1) of the Environmental Protection Act 1990. He received a 12-month prison sentence, but suspended for a period of two years so that the man could pay the EA's costs, and pay compensation to the owners of the containers for the not insignificant costs they had incurred in cleaning up the site. Financial orders, including the potential confiscation of his proceeds of crime, will be considered at a hearing in June.

EU

European Commission proposes a broad Ecodesign framework for products. The Commission adopted the Sustainable Products Initiative (SPI), which it had announced in the [new Circular Economy Action Plan](#) (CEAP 2.0). It aims at reducing the negative life cycle environmental impacts of products, while benefitting from efficient digital solutions, by setting a framework for ecodesign requirements, creating an EU digital product passport and tackling the destruction of unsold consumer products. The Commission had delayed the proposal multiple times (see [frESH Law Horizons March 2021](#)). In particular, the SPI includes the [proposal for an Ecodesign for Sustainable Products Regulation](#) (ESPR), which broadens the scope of the Ecodesign Directive. It applies to all products, except food, feed, medicinal and veterinary products, living plants and animals and products of human origin. The ESPR is meant to address products that are not covered by existing legislation or where that legislation does not sufficiently address sustainability. The proposed regulation provides a framework for the Commission to adopt delegated acts with specific rules for a product or group of products, following the approach of the current Ecodesign Directive. It tasks the Commission with adopting a Working Plan with a list of products, for which it plans to adopt delegated acts, covering at least three years, thus providing some predictability. The Commission [stated](#) that it has preliminarily identified textiles, furniture, mattresses, tyres, detergents, paints, lubricants and intermediate products like iron, steel or aluminium as products that may be suitable candidates. It expects to prepare and adopt up to 18 new delegated acts between 2024 and 2027 and 12 new delegated acts between 2028 and 2030. The Commission said that in parallel, it will launch a public consultation on the categories of products to be selected under the first Working Plan under the new ESPR by the end of 2022. Under the hitherto law, the Commission has developed EU ecodesign requirements for [31 energy-using product groups](#). At the same as it proposed the new ESPR, the Commission adopted an [Ecodesign and Energy Labelling Working Plan 2022-2024](#) based on the current law to cover additional energy-related products, and update and increase the ambition for products that are already regulated within that timeframe.



European Commission puts new rules on recycled plastic food contact materials (FCM) to a vote. The Commission presented revised drafts of the regulation on recycled plastic FCM and articles to member state representatives in its Standing Committee on Plants, Animals, Food and Feed (SCoPAFF), most recently on 29 March. It has amended the draft that it published last year (see Sustainability Outlook December 2021) and on which it consulted stakeholders. The new regulation will repeal Regulation 282/2008. For the notification of the so-called novel technologies, the new regime foresees an elaborate notification procedure and reporting requirements. Following the stakeholder consultation, the Commission has reasoned that, unlike other novel technologies, the main principles of the use of recycled plastic behind a functional barrier are already understood, and that several hundred recycling installations already manufacture recycled FCM and articles with this technology. Consequently, it added to its latest drafts specific provisions, which will apply to installations that have produced these plastics before the entry into force of the new regulation, and until the Commission has taken a decision on the suitability of this technology. In particular, the developer must verify the effectiveness of the barrier principle through migration tests, challenge tests and/or migration modelling. The SCoPAFF has already discussed the drafts during multiple meetings, most recently on 24 March. It will vote on the draft until 4 April. If approved by the committee, the Council and European Parliament will scrutinise it for up to three months. After that, the Commission plans to adopt its regulation during this summer.

European Commission opens a feedback period for rules on supply chain due diligence. The Commission opened an eight-week feedback period on the proposal for a Directive on Corporate Sustainability Due Diligence that it presented last month (please see Sustainability Outlook February 2022). The proposal's main objective is to improve the corporate governance and practices and increase corporate accountability by introducing a set of tools and procedures that would contribute to prevent and remedy human rights violation, as well as environmental damage. The feedback period ends on 23 May.

European Commission presents a new Textiles Strategy to tackle fast fashion and textile waste. The Commission published a communication on the EU Strategy for Sustainable and Circular Textiles, accompanied by a Staff Working Document on "Scenarios towards co-creation of a transition pathway for a more resilient, sustainable and digital textiles ecosystem". The Textiles Strategy sets out concrete actions to ensure that by 2030, textile products placed on the EU market are long-lived and recyclable, largely made of recycled fibres, free of hazardous substances and produced in respect of social rights and the environment. The specific measures include the development of mandatory ecodesign requirements, transparency obligations regarding discarded products, digital product passports (DPP) and other information requirements, as well as the establishment of harmonised EPR rules with eco-modulated fees. The Commission has already included, or will include, some of these measures in other proposals, such as the revision of Textile Labeling Regulation 1007/2011 and of Waste Framework Directive 2008/98 in 2023 (please see Sustainability Outlook January 2022), a possible regulation to tackle the unintentional release of microplastics in the environment from textiles (please see Sustainability Outlook February 2022), and an upcoming legislative proposal on green claims (e.g. regarding recycled plastic polymers in apparel). The Commission has also launched a dedicated study with a view to proposing mandatory targets for the (preparing for) re-use and recycling of textile waste, as well as a collaborative tool to "co-create" a transition pathway for the textiles ecosystem. The Commission will consult interested stakeholders on the Staff Working document until 15 May.



European Commission proposes rules to ban greenwashing. The Commission [proposed a directive empowering consumers for the green transition](#). It amends the Consumers Rights Directive 2011/83 (CRD) and the Unfair Commercial Practices Directive 2005/29 (UCPD) and imposes product information obligations on traders addressing “greenwashing” and early obsolescence practices. Traders must provide consumers, in a clear and comprehensive manner, information on the durability of the products, the reparability score of the goods and other information, such as information on the availability of spare parts and a repair manual. The proposal extends the list of product characteristics in the UCPD about which a trader should not deceive a consumer to environmental or social impact, durability and reparability. It adds several new commercial “greenwashing” practices that are considered misleading under certain established conditions, and 10 commercial practices, which are to be considered unfair in all circumstances, such as displaying a sustainability label that is not based on a certification, making generic environmental claims about the entire product when it actually concerns only a certain aspect of the product and presenting requirements imposed by law as a distinctive feature. The Council and European Parliament will amend and adopt this proposal following the ordinary legislative procedure. Once adopted, member states will have 18 months to transpose it to national law, with its rules applying two years after its formal adoption.

Council and Environment Committee fix their positions on reducing harmful chemicals in waste. Each EU co-legislator has been working on its position on the proposed revision of Persistent Organic Pollutants (POPs) Regulation 2019/1021. It updates the concentration limits in Annexes IV and V, which determine how waste containing POPs must be treated. The Commission presented its proposal last year (see [Sustainability Outlook November 2021](#)). The EU environment ministers [endorsed the Council negotiation mandate](#), which was formally approved by the Permanent Representatives Committee. The Committee on the Environment, Public Health and Food Safety of the European Parliament (ENVI) [adopted its report](#) by a wide majority, accepting the [compromise amendments](#) agreed upon by the five major political groups. It wants to task the Commission with assessing whether it would be appropriate to amend Waste Framework Directive 2008/98 and/or the List of Waste (Commission Decision 2014/955), to recognise that waste containing POPs exceeding the concentration limits in Annex IV must be classified as hazardous. ENVI also proposes to include perfluorohexane sulfonic acid (PFHxS), its salts and compounds, in order to anticipate the decision of their listing in the UN Stockholm Convention, scheduled for June 2022. The Parliament will vote on the report at the plenary session in May. Afterwards, both co-legislators will negotiate the final text.

European Commission considers including environmental footprint information requirements in REACH. In its [Chemical Strategy for Sustainability \(CSS\)](#), the Commission planned to assess how to best introduce information requirements under REACH on the overall environmental footprint of chemicals, including on emissions of greenhouse gases (GHG). In a [document](#) submitted to the Competent Authorities for REACH and CLP (CARACAL), the Commission has now proposed different “high-level policy options” to address environmental footprint information. Among other things, the Commission asked CARACAL whether providing environmental footprint information should be voluntary or mandatory for registrants.



European Commissions seeks comments on rules on toys. The Commission [is consulting](#) on its plans to revise the Toy Safety Directive 2009/48. The initiative aims, in particular, at protecting children against risks in toys, particularly from chemicals. It builds on work such as the [CSS](#), and on an evaluation of the current toy safety rules, which the Commission completed in 2020. According to the Commission, that evaluation identified several shortcomings, in particular concerning chemical risks. The Toy Safety Directive generally bans substances that are classified as carcinogenic, mutagenic or toxic for reproduction (CMR) under the CLP Regulation in toys, with only a few derogations. Substances under other hazardous classifications in the CLP Regulation are not currently covered by the general bans in the directive. The consultation will be open until 25 May. The Commission plans to adopt the initiative in Q4 2022.

EU strengthens the protection of workers from dangerous chemicals. Following the European Parliament's endorsement in February of the provisional agreement reached in legislative negotiations (trilogues), the Council [adopted](#) the [fourth revision](#) of the Carcinogens and Mutagens Directive 2004/37 (CMD). It will amend its scope to include reprotoxic substances and hazardous medicinal products (HMPs). This revision will transfer limit values for 12 reprotoxic substances – currently dealt with under the Chemical Agents at Work Directive 98/24 (CAD) to the stricter CMD and add or amend occupational exposure limits (OELs) for acrylonitrile, nickel compounds and benzene. Consequently, the CMD will be renamed as Carcinogens, Mutagens and Reprotoxic Substances Directive (CMRD). In the Council's view, the revision will improve protection of workers, of which more than one million are exposed to acrylonitrile and nickel compounds and benzene.

European Commission seeks comments on rules on hazardous substances in electronics. The Commission launched a [public consultation](#) on its plan to revise Directive 2011/65 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS). It seeks views on how the RoHS Directive could be improved in order to maintain its relevance and increase its efficiency. The evaluation of the RoHS Directive identified various potential areas for improvement, including alignment of RoHS with other EU legislative frameworks, such as REACH. The consultation considers the impact if the directive was turned into a directly applicable regulation. An entire section of the consultation is also dedicated to exemptions, with a view to improving the process. The consultation will be open until 2 June 2022. The Commission plans to adopt its proposal in Q4 2022.

EU legislators to start negotiations on the new rules on batteries. Members of the European Parliament [finalised](#) their position on the proposal for a Batteries Regulation, following the adoption of the report by the responsible committee (please see [Sustainability Outlook January 2022](#) and [Sustainability Outlook February 2022](#)). The Parliament confirmed the definition of a separate category of batteries for light means of transport, as well as the requirement for portable batteries (including batteries for light means of transport) to be designed for “easy and safe removal and replacement” by end users or independent operators by 2024. On recycled content, the Commission proposal provided for recycled content minimum thresholds for batteries that contain cobalt, lead, lithium or nickel in active materials, increasing from 2030 to 2035. The Council, as the other EU co-legislator, also adopted its negotiating position in a so-called [General Approach](#), and differs from the Commission on various points, including on recycled content. Now that both the European Parliament and the Council have adopted their negotiating positions, inter-institutional negotiation between the co-legislators (trilogues) are expected to start with a view to agreeing on the final text of the regulation.



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