



Delivering a toxic-free environment under REACH

Eight key NGO demands to improve the REACH Regulation

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Context: The European Green Deal offers a unique opportunity for a future where the EU achieves a Zero-Pollution Ambition. The commitment of the Chemicals Strategy for Sustainability (CSS) to transition to safe and sustainable chemicals and products and achieve a toxic-free environment in the EU must be achieved through urgent regulatory action.

The revision of one of the main chemicals regulations, REACH, is our chance to update the existing regulatory framework and adapt it to the current and emerging challenges prompted by the serious environmental and health impacts caused by the continuous exposure to a mix of toxic industrial chemicals.

With this paper, the EEB and 20 health and environmental NGOs provide a position on key priorities and recommendations in the context of the REACH revision.¹ This revision must focus on **accelerating, simplifying, and making regulatory processes for chemicals of concern less burdensome for the authorities.**

In order to achieve the toxic-free environment vision, we demand to **keep the revision up to the same level of ambition expressed in the Chemicals Strategy for Sustainability: speeding up the phase-out of the most hazardous chemicals and transitioning to safe and sustainable chemicals and products.**

To protect the environment and meaningfully contribute to the health of citizens and future generations, the REACH revision must focus on the following 8 priorities:

¹ REACH Regulation No 1907/2006, accessible at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006R1907&from=en>

1. Secure a high level of protection of human health and the environment, true to the EU Treaties²

The REACH revision must:

- a. **Reduce (combined) exposure** to chemicals of concern;
- b. **Simplify procedures**³ in order to achieve a higher level of health and environmental protection;
- c. Apply the **precautionary principle**;
- d. Introduce a scientific **early warning and action system** to address emerging chemical risks;
- e. Update the **legislation to the state of science**.

2. Speed up the regulation of chemicals and prioritise prevention at source

Hazardous chemicals currently present on the market should be swiftly identified and phased out. The REACH revision must:

- a. Increase the number of **grouped restrictions**;
- b. **Accelerate procedures** by setting (where missing) or shortening legal deadlines for the assessment and management of chemicals;
- c. **Close the existing gap on chemical safety information**, notably for REACH Evaluation and Restriction procedures.

3. Alleviate the burden placed on authorities

Industry must have the responsibility to demonstrate that a substance is safe before accessing the single market – which is the case in theory today (*no data, no market*), but not in practice. The chemicals industry shall prevent negative impacts of its full production life cycle (e.g., sustainability of input materials used, reduce its climate and environmental pollution footprint, etc). The REACH revision must:

- a. Shift from a 'market first' practice to a '**no safety and sustainability proven, no market**';
- b. The chemicals **industry must bear the burden of proof** to demonstrate that their chemicals are safe and be held accountable for the safety of the chemicals throughout their life cycle;
- c. **Simplify procedures** for authorities and **lower the weight of evidence** required to regulate chemicals under REACH;

² Accordingly with Article 3.3 of the Treaty of the EU and Article 191.2 of the Treaty on the Functioning of the EU

³ Notably for REACH Evaluation, Restrictions or the classification of hazardous chemicals under CLP

- d. Ensure the **implementation of the “Zero tolerance to non-compliance” pledge**⁴ to fix the chemicals legislation’s low levels of compliance;
- e. **Harmonise enforcement** regimes, measures and sanctions across National Enforcement Authorities (NEAs) by setting common approaches and criteria while ensuring that **NEAs’ enforcement actions are dissuasive** enough to prevent non-compliance, based on best practices adopted under other legislation.⁵
- f. Guarantee **sufficient resources to NEAs** and provide the **powers to ECHA to actively ensure compliance**. Private persons must be empowered to support enforcement authorities via the creation of procedures enabling them to submit substantiated concerns on non-compliance to their competent authorities, as well as compensation in case of harm.

4. Clean the circular economy and ensure toxic-free materials and products

Consumers and vulnerable populations should be protected from exposure to substances of concern in circular materials and products. To ensure the safety of chemicals in products we propose the following recommendations:

- a. **Ban substances of concern in consumer products** as provided under the CSS (thanks to a generic approach to risk management), and prevent dilution of hazardous substances into recycled content;
- b. Ensure **transparency** on chemicals in products, in synergy with product policies.

5. Accelerate the substitution of hazardous substances under REACH and provide chemicals that are safe and sustainable by design

REACH processes, such as Restriction and Authorisation, should improve consistency between regulations and prevent pollution at source. To remain key drivers for substitution and the transition towards safe and sustainable chemicals Restriction and Authorisation processes under REACH must:

- a. **Make the substitution principle mandatory** and provide **incentives for substitution** by strengthening the Restriction and Authorisation procedures;
- b. Provide incentives for research, innovation and support **substitution towards safe and sustainable chemicals and products**.

6. Improve transparency, accountability, and access to justice for the decision-making processes

Transparency and accountability are core democratic principles contributing to open EU decision-making; they also represent non-financial incentives for compliance. To facilitate protection, the

⁴ As committed under the Chemicals Strategy for Sustainability

⁵ Such as Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (GDPR); Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market (the UCPD, as amended by Directive (EU) 2019/2161); proposed revision for Directive 2010/75/EU on industrial emissions (‘the IED’)

REACH Revision must improve transparency on chemical substances data along their life cycle and integrate the principle of open data from the EU food safety sector, as committed to under the CSS. The REACH revision must:

- a. **Publish non-compliant chemicals/dossiers and companies** to ensure transparency on non-compliance;
- b. **Improve the rules of procedure for the authorities** in charge of the assessment and the regulation of chemicals to guarantee these principles.
- c. **Procedures to access the ECHA Board of Appeal and challenge decisions from the Agency must be revised** and relaxed to guarantee access to civil society on an equal foot compared to industry.

7. Make the polluters pay

Despite its “incomplete”⁶ application, the polluters-pay principle is a core basis for the EU environmental policy in the EU⁷ and underpins the REACH Regulation.⁸ The REACH revision must:

- a. **Integrate the polluter-pays principle** in all relevant proposals for reform;
- b. **Introduce punitive** fees for using and introducing hazardous substances on the market and use the revenue to cover costs related to pollution prevention;
- c. **Establish/Fund an EU-wide substitution and green innovation centre** that supports industry (in particular SMEs) to reduce the use and manufacture of toxics.

8. Allocate further resources to authorities

Increased resources should be allocated by the companies manufacturing and using hazardous chemicals to EU Institutions, agencies (European Commission, ECHA) and Member States to implement and enforce the chemicals legislations, in order to provide adequate expertise to chemical assessment and management. Resources should notably be allocated to:

- a. **Promote safe and sustainable practices** to prevent pollution;
- b. **Conduct the risk assessment and management** of chemicals;
- c. **Monitor, control, and sanction non-compliance** effectively, notably by introducing an obligation on manufacturers or importers to provide access to analytical reference standards upon request, as well as information on their use of substances of concern (reform of article 33 and 66).

⁶ The European Court of Auditors concluded that the application of the polluter-pays principle is incomplete and that the “EU budget is sometimes used to fund clean-up actions that should, under the polluters pay principle, have been borne by polluters.” European Court of Auditors, Special Report 12/2021: The Polluter Pays Principle: Inconsistent application across EU environmental policies and actions, July 2021

⁷ Article 191.2 Treaty on the Functioning of the EU

⁸ Article 1.3 REACH

For further details on specific procedures of REACH, please consult EEB's (joint) submissions on [Registration and Evaluation](#), on [Restriction and Authorisation](#), on [use and exposure information](#), or on [combination effects of chemicals](#).