

## Global Regulatory Update for November 2023

Article By:

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### AUSTRALIA

***AICIS Posts Video On Proposed Changes To AICIS Rules And Guidelines On Categorization, Reporting, And Recordkeeping:*** The Australian Industrial Chemicals Introduction Scheme (AICIS) has [posted videos](#) of webinars held in September and October 2023 on proposed changes to AICIS Rules and Guidelines on categorization, reporting, and recordkeeping:

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Comments were due November 9, 2023.

### CANADA

***HC Announces Launch Of Canadian Product Safety Pledge:*** On

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September 28, 2023, Health Canada (HC) [announced](#) the launch of the Canadian Product Safety Pledge with Amazon Canada and eBay Canada as the first signatories. According to HC, as signatories, these companies that host products from third-party sellers have voluntarily committed to strengthening product safety. This will be done through a combination of preventative and corrective actions intended to help reduce the safety risks associated with consumer products and cosmetics purchased through their online marketplaces. HC states that signatories have committed to making it easier for consumers to report product concerns to them, at the point of sale, and to HC. If a product sold through a signatory's marketplace is subsequently recalled, the signatory will inform consumers about the recall. The signatories have also committed to enabling third-party sellers to provide consumers with more accurate product descriptions, as well as more information about third-party sellers on product listings.

### ***Canada Publishes Updated Guidance On WHMIS Supplier***

**Requirements:** Canada has published an updated [Guidance on the WHMIS supplier requirements](#) (Guidance), a “refresh” of the document formerly known as the “Technical Guidance.” The Guidance is for suppliers of hazardous products destined for Canadian workplaces. It provides information on the Workplace Hazardous Materials Information System (WHMIS) requirements of the Hazardous Products Act (HPA) and the Hazardous Products Regulations (HPR), as well as the Hazardous Materials Information Review Act (HMIRA) and its regulations and the mechanism to protect confidential business information (CBI). Canada has updated the Guidance and consolidated several key content updates previously communicated, so that all the information is now in one single location. The key content updates include:

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## EUROPEAN UNION (EU)

### ***EC Adopts Measures To Restrict Intentionally Added***

***Microplastics:*** The European Commission (EC) **announced** on September 25, 2023, that it adopted measures to restrict microplastics intentionally added to products under the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) regulation. The EC states that the adopted restriction uses a broad definition of microplastics, covering all synthetic polymer particles below five millimeters that are organic, insoluble, and resist degradation. The EC provides the following examples of common products within the scope of the restriction:

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The EC notes that products used at industrial sites or not releasing microplastics during use are derogated from the sale ban, but states that their manufacturers will have to provide instructions on how to use

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and dispose of the product to prevent microplastics emissions. The EC has posted a [questions and answers \(Q&A\) document](#) on the restriction, which [was published](#) in the September 27, 2023, issue of the *Office Journal of the European Union* and entered into force on October 17, 2023.

***ECHA Receives More Than 5,600 Comments On PFAS Restriction Proposal; ECHA Enforcement Forum Publishes Advice On Enforceability Of Proposal:*** The European Chemicals Agency (ECHA) [announced](#) on September 26, 2023, that at the end of public consultation on September 25, 2023, it had received more than 5,600 comments from more than 4,400 organizations, companies, and individuals on the proposal to restrict per- and polyfluoroalkyl substances (PFAS) in the European Economic Area (EEA). ECHA Committee for Risk Assessment (RAC) and Committee for Socio-Economic Analysis will check the comments and consider those providing “relevant evidence-based information” in the opinion-making process. According to ECHA, the five countries that prepared the initial proposal will also review the consultation input and may update their initial proposal based on it. As ECHA processes the comments, it is [publishing them on its website](#). ECHA states that it will deliver the final RAC and SEAC opinions to the EC “in the shortest possible timeframe, while ensuring proper scrutiny by the scientific committees.” Once RAC and SEAC adopt their opinions, ECHA will publish them online. The EC, together with the EU member states, will decide on the restriction.

ECHA has [posted the report](#) prepared by its Forum for Exchange of Information on Enforcement on the enforceability of the restriction proposal. The Forum notes that using structural criteria to identify the substances subject to the restriction, without reference to a list of substances or Chemical Abstracts Service Registry Numbers<sup>®</sup> (CAS RN<sup>®</sup>), is “challenging for enforcement authorities.” The Forum suggests that if the intention is to cover the use of mixtures and articles, then the wording of the restriction should be revised.

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Regarding the applicability of the restriction to articles, the Forum states that “[w]ith the current wording for an article that is coated with PTFE, the concentration of PFAS will be calculated on the whole article and not only on the concentration in the coating. From an enforcement perspective it would be easier to assess the compliance in the coating, providing the desired function to the article, rather than the whole article.”

More information on the restriction proposal is available in our February 13, 2023, [memorandum](#).

### ***ECHA Finds REACH Registrations In Breach Of Update***

**Requirement:** ECHA [announced](#) on September 27, 2023, that it carried out two campaigns during 2021-2023 to remind companies of their obligation to keep their REACH registrations up to date. According to ECHA, 57 of the 689 screened registrations, from 50 companies in 11 EU member states, are still in breach of the update requirements under REACH Article 22. ECHA states that it reported these registrations to the national enforcement authorities for further action. More information is available in our October 26, 2023, [blog item](#).

### ***EP Adopts Position On New Rules To Classify, Label, And Package Chemical Substances And Mixtures:***

The European Parliament (EP) [announced](#) on October 4, 2023, that it adopted, with 519 votes in favor, 99 against, and eight abstentions, its position on the revision of the Classification, Labelling and Packaging (CLP) regulation to identify and classify hazardous chemicals better, improve communication on chemical hazards, and address legal gaps and high levels of non-compliance. The press release states that the EP supports the new formatting rules for hazard communication that will make labels more readable thanks to new requirements to minimum font size and color and underline that all relevant actors in the supply chain, including those selling online, must apply the new rules. According to the press release, by **January 1, 2026**, the EC must classify substances according to the new hazard classes if they have

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been included in the candidate list on **January 1, 2025**. The EC must also assess the introduction of hazard criteria for immunotoxicity and neurotoxicity by **December 2025**. The EP is now ready to start negotiations with EU member states on the final law.

### ***ECHA Will Prepare Restriction Proposal On Chromium (VI)***

**Substances:** ECHA [announced](#) on October 11, 2023, that the EC has requested that it prepare an Annex XV report for possible restriction of at least the chromium (VI) substances that are currently in entries 16 and 17 of the REACH Authorization List (Annex XIV). ECHA states that it will submit the proposal by **October 4, 2024**. According to ECHA, the restriction proposal aims to address the challenges posed by the current and possible future workload both for ECHA and the EC stemming from the high number of applications for authorization to use these substances, “already submitted or potentially coming from hundreds of companies.” Once the EC adopts the restriction, the substances in scope will be removed from the Authorization List, “mark[ing] the first time in REACH’s history where such an action would be done.” ECHA notes that the EC has published a [Q&A document](#) clarifying the situation for affected companies. The Q&A also covers the main questions concerning the judgment of the European Court of Justice annulling the authorization of a consortium covering many chromium trioxide downstream users (Chemservice decision).

### ***EC Proposes Measures Intended To Reduce Microplastic Pollution From Plastic Pellets:***

The EC [announced](#) on October 16, 2023, proposed measures intended to prevent microplastic pollution from the unintentional release of plastic pellets. The proposal includes:

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The EP and the Council of the EU will discuss the EC's proposal. The EC notes that all economic operators, both EU and non-EU, would need to comply with the requirements set out in its proposed regulation within 18 months of its entry into force.

### ***EP Committee Calls For “Drastic Cut” In Use Of Chemical***

***Pesticides:*** The EP's Environment Committee **announced** on October 24, 2023, that it adopted its position on measures to ensure sustainable pesticides use. Adopted with 47 votes to 37 and two abstentions, the text states that by **2030**, “the EU must reduce the use and risk of chemical plant protection products by at least 50% and the use of so-called ‘more hazardous products’ by 65%, compared to the 2013-2017 average.” The EC had proposed a 50 percent target for both based on the 2015-2017 average. Each member state would adopt national targets and strategies, based on the substances sold per year, their hazard level, and the size of their agricultural area. The EC would then verify whether national targets need to be more ambitious to achieve EU **2030** targets. According to the announcement, by **December 2025**, the EC would be required to examine the differences in the use of pesticides on imported agricultural and agri-food products relative to EU produce and, if needed, propose measures to ensure imports meet EU-equivalent standards. In addition, the export of pesticides not approved in the EU would be prohibited. The EP is scheduled to adopt its mandate during the **November 20-23, 2023**, plenary session, after which it is ready to start negotiations with EU member states.

***ECHA Finds Toxic Chemicals In Childcare Products:*** On November

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8, 2023, ECHA **announced** that its investigation, drawing on information from 48 different sources, shows that substances that are carcinogenic, mutagenic, or toxic for reproduction (CMR) may be present in childcare products (articles). ECHA states that CMRs were most often found in items such as car seats, bibs, products related to toiletries, and bedding and mattresses. According to ECHA, its report provides elements to support the EC in preparing a potential future restriction. These include information on how childcare articles are defined, what the restriction could cover, potential derogations, recommended concentration limits, and timeframes for implementation. The report also includes views from ECHA's Enforcement Forum on how feasible it would be to enforce such a restriction. ECHA sent its report to the EC, where it will be used to prepare a draft restriction proposal under REACH Article 68(2). This procedure allows the EC to prepare a restriction proposal without involvement of ECHA's scientific committees.

***ECHA Identifies Research Needs For Regulating Hazardous***

***Chemicals:*** ECHA **announced** on November 15, 2023, that it published a report entitled **Key Areas of Regulatory Challenge** that identifies areas where research is needed to protect people and the environment from hazardous chemicals. It also highlights where new methods, that support the shift away from animal testing, are needed. ECHA identified the following areas as priorities for research:

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## UNITED KINGDOM (UK)

***HSE Begins Public Consultation On Draft Recommendation To Add DIHxP To UK REACH Authorization List:*** The UK Health and Safety Executive (HSE) began a [public consultation](#) on September 18, 2023, on its draft recommendation for 2023 to include diisohexyl phthalate (DIHxP) on the authorization list (Annex 14 of UK REACH). According to HSE's [draft background document](#), ECHA prioritized DIHxP and included DIHxP in its April 12, 2023, recommendation for the inclusion of substances in EU REACH. HSE states that it used the results from ECHA's prioritization exercise to inform its draft recommendation. The background document states that DIHxP is identified as a substance of very high concern (SVHC) according to Article 57(c) of UK REACH and is classified in the Great Britain (GB) Mandatory Classification and Labelling (MCL) list as toxic for reproduction, category 1B, H360F ("May damage fertility"). The background document notes that DIHxP was included in the EU candidate list for authorization on January 16, 2020. It was included in the UK candidate list on January 1, 2021, by virtue of UK REACH Article 59(1A). Comments on the draft recommendation are due **December 18, 2023**. More information is available in our October 13, 2023, [blog item](#).

***Defra Publishes Policy Paper On UK REACH Alternative Transitional Registration Model:*** On November 9, 2023, the Department for Environment, Food and Rural Affairs (Defra) published a [policy paper](#) on a UK REACH alternative transitional registration model (ATRm). According to Defra, in response to concerns raised by the chemicals industry about the significant cost to businesses of accessing EU data packages to support UK REACH transitional registrations, Defra has been exploring options with HSE and Environment Agency (UK REACH regulators) for an ATRm.

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Defra states that the government's ambition is to establish a more comprehensive picture of where and how chemicals are used in GB. Defra will tailor the requirements for GB chemical registration to focus on gathering information on the use and exposure of the chemicals, in particular those of higher concern. It will augment this by requiring any further data needed for regulatory purposes in a targeted way, as new or emerging risks are identified by the United Kingdom (UK) or other global sources. According to Defra, it has made significant progress on developing proposals on which to consult in the following areas:

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Defra states that it is also looking at how it might improve the working of REACH in the medium to long term. Defra intends to consult on more details of the policy in **early 2024**.

## **UNITED NATIONS (UN)**

***ICCM5 Adopts Global Framework On Chemicals:*** The UN Environment Programme (UNEP) **announced** on September 30, 2023, that the Fifth International Conference on Chemicals Management (ICCM5) concluded with the adoption of a “Global Framework on Chemicals — For a planet free of harm from chemicals and waste,” a comprehensive global framework setting targets and guidelines for key sectors across the entire lifecycle of chemicals. UNEP states that based around 28 targets, the framework outlines a roadmap for countries and stakeholders to address collaboratively the lifecycle of chemicals, including products and waste. According to UNEP, the framework calls for the prevention of the illegal trade and trafficking of chemicals and waste, the implementation of national legal frameworks, and the phase out by **2035** of highly hazardous pesticides in agriculture. It also calls for the transition to safer and more sustainable chemical alternatives, the responsible management of chemicals in various sectors — including industry, agriculture and healthcare — and the enhancement of transparency and access to information regarding chemicals and their associated risks.

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