

EEB comments on

New hazard classes and SVHC/CLP transition

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Summary

The revision of the REACH and CLP regulations offers an opportunity for more efficient and more effective hazard identification of endocrine disruptors and highly persistent substances, contributing to improved protection of health and the environment against these substances of very high concern. We support one substance, one assessment to ensure coherence, efficiency and effectiveness, but the Commission's proposal for "CLH first, then SVHC identification", pre-empting the classification of hazardous chemicals before they can be identified as SVHCs under REACH, will result in unacceptable delays of their hazard identification compared to the current situation, in particular for the identification of endocrine disruptors and persistent SVHCs. Therefore, **it is essential to maintain flexibility and optimise the hazard identification process in a way that avoids the introduction of additional delays and ensures optimal use of existing expertise and competence across committees and legislations.** This is further elaborated below.

Introduction

The Harmonised Classification and Labelling process under CLP Regulation and the identification of substances of very high concern (SVHCs) under the REACH Candidate List, are complementary regulatory processes with different objectives, scope and impacts.

CLH aims to ensure consistent and standardised communication of hazardous properties of chemicals to protect human health, the environment, and facilitate international trade.

Although CLH does not directly trigger restrictions of chemicals, certain hazardous properties classified under CLP can be restricted through other pieces of legislation, including REACH.

The identification of SVHCs in the Candidate List is the first step towards the authorisation process for substances having particularly hazardous properties, and aims primarily to encourage phase out and substitution with safer alternatives, but also to enhance the safety of chemicals used in products, improve transparency, and ultimately protect human health and the environment from the potential hazards associated with these substances. The impact of substitution and innovation of the Candidate List is well known and recognised worldwide.

In essence, while both the CLH process and the Candidate List involve the identification and communication of hazardous properties of substances, they serve different purposes and have distinct objectives and scopes within the regulatory framework. CLH and the Candidate List are different tools that are and should be complementary rather than one replacing or pre-empting the other. **Chemicals are classified under CLH with different purposes than included in the Candidate List and this should remain possible for decision makers to choose the most efficient and protective tool on a case by case basis.**

Substances of very high concern and harmonised classification

Endocrine disruptors (EDCs) are substances of very high concern for public health and wildlife because they can cause a wide array of harmful effects at very low concentrations, such as certain types of cancers, obesity and diabetes, behavioural disorders and reduced fertility. Persistent SVHCs (PBT/vPvB and PMT/vPvB) are substances of very high concern for people and the environment because they can cause widespread, and long lasting pollution, leading to exposure of current and future generations through contaminated food, and irreversible pollution of drinking water sources.

Revision of REACH and CLP - Hazard identification

So far, EDCs, PBT/vPvB and PMT/vPvM chemicals could only be identified as SVHC under REACH. With the revision of REACH and CLP, the identification of these hazards will be improved due to the introduction of the new hazard classes in the CLP regulation and the addition of new SVHC categories under REACH. Due to the introduction of dedicated SVHC

categories in REACH for EDCs and PMT/vPvM, the Equivalent Level of Concern (ELoC) assessment will no longer be required for their identification if the criteria are fulfilled, while the ELoC assessment can still be used as safety net if available data do not entirely comply with the criteria. The introduction of the new hazard classes in CLP allows for the (harmonised) hazard classification of EDCs and persistent SVHCs under the CLP regulation. Moreover, the criteria for hazard classification under CLP and SVHC identification under REACH will be aligned.

CLH first, then SVHC: unacceptable delays in identification of EDC and persistent SVHC

The Commission recommended in the CARACAL presentation to start with establishing a harmonised classification under CLP, and then continue with the SVHC identification under REACH (“CLH first, then SVHC”). This is already the procedure established for CMRs. Whereas we support the principle of one substance - one assessment, the proposed procedures should not lead to additional delays.

But **this recommendation of CLH first, before SVHC identification, would introduce an additional delay of 4 years** on average compared to the current situation for the identification of EDCs and persistent SVHCs. The ‘Need for Speed’ report published by the EEB¹ calculated that the median time for harmonised classification & labelling is **55 months** from the submission of the dossier to the RAC until entry into force. In contrast, the median time for SVHC identification is only **6 months** from submission of the dossier to the ECHA’s Member States Committee (MSC), until inclusion in the Candidate list. The different length of procedure is explained by the fact that CLP allows RAC 18 months for opinion development, and then it takes the Commission 37 months to process the RAC opinion and implement the classification & labelling requirement by law. In contrast REACH allows the MSC only 5 months for a decision on SVHC identification and mandates ECHA to add SVHCs to the Candidate List if unanimously agreed by MSC.

The Candidate List is a major driver for innovation and substitution

A median delay of 4 years compared to the current situation is unacceptable considering the serious and irreversible nature of the persistent SVHCs and EDCs. It is crucial to note in this

¹ EEB [Need for speed](#) report (2022)

respect that during this delay, the substances continue to be marketed and used within the EU, as was also recognised by the EU Ombudsman².

The Candidate List imposes immediate obligations on SVHC suppliers like the notification obligation of articles containing the SVHC, provision of safety data sheets to customers, and minimising exposures and releases³.

Moreover the Candidate List is a major driver of innovation and substitution to less hazardous alternatives⁴. Customer and investor demands for SVHC-free products make the Candidate List a strong trigger for companies to take active steps to substitute the use of SVHCs. Major companies committed to phase-out SVHCs from their consumer products after inclusion in the Candidate List (e.g. Ikea, Adidas, Nike, H&M, ZARA^{5 6}).

Therefore, we recommend maintaining flexibility for the hazard identification process to avoid additional delays and allow swift measures to protect public health and the environment.

Keep consistency and optimise use of competence and expertise

Avoid further overload of RAC's capacity and loss of expertise and competence. Currently, RAC identifies CMRs under the CLP regulation, whereas the MSC identifies EDCs and persistent SVHCs under REACH. The Member State Committee (MSC) is the committee with exclusive experience on industrial chemicals regarding the hazard identification of the EDCs, PBT/vPvB and PMT/vPvM and has identified 22 EDC, 46 PBT/vPvB and 5 PMT/vPvM entries on the Candidate List. To prevent inconsistencies in the future hazard identification of EDCs and persistent SVHCs, to optimise the use of existing expertise and competence and better manage the workload of the different ECHA committees, we recommend a continued role for the MSC in the hazard identification process. **As the revision of CLP and REACH will bring alignment of the criteria for SVHC and classification, we recommend flexible cross-referencing in both**

² Ombudsman [inquiry](#) into the risk management of dangerous substances by the European Commission (2023)

³ ECHA [Changes in market volumes of substances subject to authorisation](#) (2022)

⁴ ECHA [Insights on the impact of REACH & CLP implementation on industry's strategies in the context of sustainability](#) (2017)

⁵ Chemsec [Chemicals and business](#)

⁶ ECHA [Ikea's general ban on SVHCs](#) (2020)

directions to decrease delays in hazard identification and subsequent risk management across legislation, instead of introducing additional delays compared to the present situation.

Harmonised classification for PMT/vPvM

Inclusion of PMT/vPvM substances in Annex VI of CLP. The Commission proposed the inclusion of already identified ED and PBT/vPvB substances in Annex VI of CLP through a delegated act. We support this proposal, and propose the additional inclusion of PMT/vPvMs as well. There are five entries in the Candidate list for PMT/vPvM substances identified as SVHC and all of them clearly meet the classification criteria under CLP in terms of Persistency, Mobility and Toxicity. Therefore we urge the Commission to also include in the delegated act the harmonised classification for all SVHCs identified as PMT/vPvM. In addition, we note that SVHCs identified in the near future should be included in the delegated act.