

Subject: Risk assessment of substances and compatibility of different legal regimes

On 1 June 2007, the REACH Regulation (EC 1907/2006)¹ entered into force. REACH applies a thorough risk analysis compatible with the comprehensive risk assessment procedure under the Regulation on Existing Chemicals (EC 793/1993)² to chemical substances of potential concern.

At the same time, the EU continues to apply and revise other directives which cover some of the risk assessed substances, such as the RoHS (2002/95/EC)³ and WEEE (2002/96/EC)⁴ directives. In some of these cases where more than one legal regime applies for one substance, risk assessment conclusions of Regulation 1907/2006 or Regulation 793/1993 have not been taken into account. Effectively, this leads to a situation where there are substances with a positive risk assessment conclusion, but which are however restricted under other directives in contradiction to this conclusion.

1. How many substances have passed a risk assessment which has concluded that there is no need for further information or testing and no need for risk reduction measures beyond those which are being applied already, and which are at the same time subject to regulation under other directives and which are these substances?
2. Does the Commission agree that substances where risk assessment under the Regulation on Existing Chemicals risk assessment procedure or REACH has concluded that there is no need for further information or testing and no need for risk reduction measures beyond those which are being applied already, for example DecaBDE, should not be open to restrictions or bans under other, potentially contradictory legislation?
3. Are there criteria under which the Commission would accept potentially contradictory regulations and which are they? Would contradictory legal regimes on applications, such as substances/products regulated in RoHS or WEEE, be in line with the aims of REACH and the Better Regulation Initiative?
4. Assuming that the REACH process must be unambiguous and reliable, how does the Commission intend to ensure, through procedural and legal changes or otherwise, that contradictions such as those mentioned above can in future be avoided?

¹ OJ L 396, 30.12.2006, p. 1.

² OJ L 84, 5.4.1993, p. 1.

³ OJ L 37, 13.2.2003, p. 19.

⁴ OJ L 37, 13.2.2003, p. 24.