



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
Ecosystems I: Chemicals, food and retail

REACH

Bioeconomy, chemicals and cosmetics

Directorate-General for Environment
Circular Economy and Green Growth
Sustainable Chemicals

Brussels, **XXX**

XX Meeting of Competent Authorities for REACH and CLP (CARACAL)

Open session

XX June 2023

Concerns:

Nickel restriction - Publication of titles and references of standards to be used as the test methods for demonstrating the conformity of articles under entry 27 of Annex XVII to Regulation (EC) No 1907/2006 (REACH)

Agenda Point:

IP.X - For information

The restriction on nickel laid down in entry 27 of Annex XVII REACH provides for the standards adopted by the European Committee for Standardisation (CEN) to be used as the test methods for demonstrating the conformity of articles to paragraphs 1 and 2 of the restriction.

The references of those CEN standards were traditionally published in the C series of the *Official Journal of the European Union* (OJEU) by means of a Commission Communication. Information on this Communication was also made available on the Commission webpage on “Harmonised Standards” (https://ec.europa.eu/growth/single-market/european-standards/harmonised-standards_en).

In April 2021, the Commission services responsible for REACH decided to start applying a more pragmatic approach for the publication of the references of the CEN standards for the purposes of entry 27, by publishing them on the Commission webpage dealing with REACH restrictions (https://ec.europa.eu/growth/sectors/chemicals/reach/restrictions_en). A corresponding link was made available on the abovementioned Commission webpage on “Harmonised Standards”.

Since then, however, a judgment of the Court of Justice¹ underlined that, although the EU legislature may refer to technical standards determined by a standards body, the principle of legal certainty requires that the reference to such standards be clear and precise and predictable in its effect.

Accordingly, the Commission services responsible for REACH preferred to return to the previous practice of publishing the references of the CEN standards for the purposes of entry 27 in the C series of the OJEU, by means of a Commission Communication.

The latest such OJEU publication dated 3 March 2023 can be found here: [EUR-Lex - 52023XC0303\(03\) - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/lexuris/ui/entry/52023XC0303(03)-EN). The references are unchanged compared to those published on the Commission webpage dealing with REACH restrictions in April 2021 (cf Doc. CA/23/2021). In view of the nature of the CEN standards in question, the publication refers to them as European standards rather than harmonised standards.

Corresponding links are available on the Commission webpage dealing with REACH restrictions (https://ec.europa.eu/growth/sectors/chemicals/reach/restrictions_en) as well as the Commission webpage on “Harmonised Standards”, in the Chapter “References of harmonised standards and of other European standards published in the OJEU” (https://ec.europa.eu/growth/single-market/european-standards/harmonised-standards_en).

¹ Case C-160/20

(<https://curia.europa.eu/juris/document/document.jsf?jsessionid=349D74EC628866CD0D51B05CC6866AC4?text=&docid=254381&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=5056403>).