

INFORMATION  
for professional users<sup>1</sup> of construction  
chemical products in respect of the  
proposal by the European Chemicals  
Agency (ECHA) for a REACH restriction  
on microplastics

1<sup>st</sup> Edition, December 2019

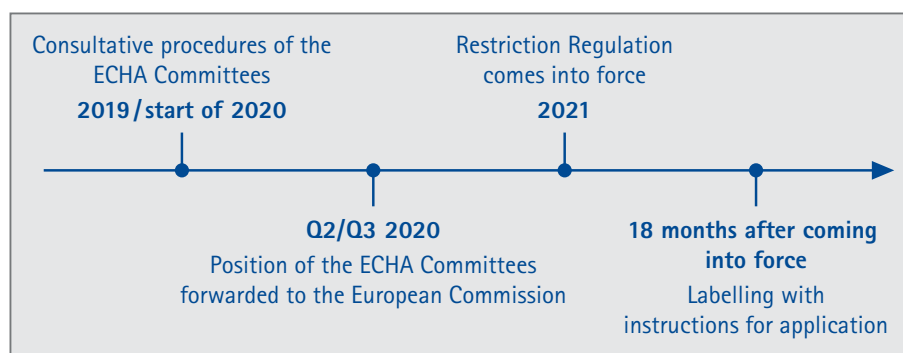
## Status of the Legislature Procedure and Further Development

At the request of the European Commission, the European Chemicals Agency (ECHA) presented a proposal for a REACH restriction on microplastics<sup>2</sup> for discussion, and thereby initiated a legislature procedure. Within the framework of a public consultation, all interested persons and stakeholders were given the opportunity of providing comments on the restriction proposal by 20 September 2019.

On this basis, the committees responsible at the ECHA (Risk Assessment Committee (RAC) and Socio-economic Analysis Committee (SEAC)) will undertake consultations on the restriction proposal, and decide on a joint position. The position adopted by the RAC and SEAC will then be forwarded by the ECHA to the European Commission.

On the basis of the ECHA position, the European Commission will then consult jointly with the representatives of the Member States on the REACH Committee with regard to a possible text for law, which will then be adopted as a new entry in Annex XVII of the REACH Regulation. The restriction would then acquire force of law directly in all EU Member States, as a European Regulation.

Now that the ECHA Committees have come to an opinion in common with regard to the restriction proposal, it is assumed that this will be forwarded to the European Commission in the second or third quarter of 2020. There are no specified time periods for the subsequent consultative procedures in the REACH Committee, and the further course of the procedure is therefore difficult to assess. Given the high degree of significance and the controversies which have already become evident, however, a consultation period of considerable length is to be reckoned on. A decision is therefore hardly to be anticipated before 2021. After the new Restriction Regulation comes into force, the transitional periods specified in the restriction will then come into effect.



## Contents of the proposed Restriction Regulation

The ECHA Restriction proposal contains a relatively complex and extensive definition of the term "microplastics", which covers a large number of materials which contain polymers. The proposed definition therefore also includes a series of materials which are constituent parts of construction chemical products.

<sup>1</sup> The industrial use of construction chemical products is not the object of this information script. For the industrial use of construction chemical products (e.g. concrete additives), further aspects of the restriction proposal may be relevant, and lead to obligations being placed on industrial users.

<sup>2</sup> For the definition of microplastics, see ECHA restriction proposal.

According to the ECHA proposal, the marketing of products which contain such microplastics should be prohibited in the event that the microplastic contained is released into the environment during intended use.

Exceptions apply to products which do indeed contain microplastics in the form as supplied, but which

- either permanently convert into a "non-microplastic form" during use,
- or during use are permanently incorporated into a solid matrix.

Products to which one of the two exceptions referred to above applies may continue to be marketed and used. The party placing them on the market, however, must comply with certain labelling requirements and annual reporting obligation to ECHA:

- The party placing the product on the market who makes use of the exceptions referred to above must report to ECHA annually certain specific data relating to the type and quantity of the product containing microplastics which is being marketed.
- Moreover, the party placing the product on the market must provide instructions for use in the safety datasheet and/or on the product label. The intention is that, by way of the instructions for use, as far as possible no microplastics should be released into the environment during the use of the product.

### Impact from the perspective of the manufacturers of construction chemical products

Deutsche Bauchemie basically welcomes the ECHA initiative towards the reduction of the emission of microplastics into the environment.

Construction chemical products do not contain any microplastics which are released into the environment during intended professional uses.

Construction chemical products are therefore not affected by the prohibition on placing on the market, since they are subject to the corresponding exception rulings.

The construction chemical products affected are subject to the exception rulings, due to the fact that the microplastics contained, during use,

- are either permanently converted into a "non-microplastic form"  
*Example: Polymer dispersions as binding agents, where the microplastic particles during use are irreversibly converted to a polymer film.*
- or are permanently incorporated into a solid matrix.  
*Example: Use of polymer fibres or polymer surface-coated fillers and pigments in cement-bonded products. During use, the polymer fibres or polymer surface-coated fillers and pigments are permanently incorporated into the cement stone matrix.*

In accordance with the exception rulings, the products can continue to be marketed and used; they are, however, subject to labelling requirements and an obligation of annual reporting to ECHA must be considered.

The annual reporting obligations are aimed at the party who places the microplastic-containing products on the market.

Professional users of construction chemical products are not subject to any reporting obligations.

### **What does this mean for commercial customers of the construction chemical industry?**

The marketing of construction chemical products is not restricted by the restriction proposal. All construction chemical products will be available without restriction even in the event of the implementation of the restriction proposal.

Professional users of construction chemical products are not subject to any reporting obligations whatever in connection with the restriction proposal.

Professional users of construction chemical products must follow the instructions for use provided on the product label and/or in the safety datasheet, in order to be sure of avoiding a possible release of microplastics into the environment.

*Deutsche Bauchemie are readily available to provide further information on the topic.*

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