

EPEE NEWS



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A Newsletter from the European Partnership for Energy and the Environment (EPEE)

KEY ITEMS

F-gases

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The Council is expected to adopt its Common Position in March/April 2005. The issue will then be referred back to the Parliament for Second Reading. This Second Reading will be more open because of the new Parliament. The Second Reading should be finalised in Autumn 2005.

WEEE/RoHS

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Work is ongoing by TAC (Technical Advisory Committee) on implementing issues. TAC is considering follow-up measures on the WEEE and RoHS Directives. The main issue remains the scope and the exceptions to the Directives.

REACH – the Chemical Review

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The European Parliament held a major stakeholder hearing on 19 January during which Commissioner Verheugen admitted that European industry will have a competitive disadvantage in the short term. This will have an impact on HVAC products.

EuP

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The proposal on Energy using Products (EuP) is now in Second Reading in the Parliament with Frederique Ries acting as rapporteur. The Rapporteur has identified HVAC systems as systems with a high potential for cost-effective reduction of greenhouse gas emissions.

Energy Performance Buildings

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The Directive on Energy Performance of buildings entered into force in January 2003. The minimum requirements for the energy performance of buildings are expected to be legally binding in the Member States by January 2006.

Commission work programme

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The European Commission published its official work programme at the end of January. It confirms that climate change remains a priority for the new Commission. One area of interest to the Commission will be energy efficiency on which a Green Paper is expected in the coming months.

EPEE is a business partnership committed to responsible global energy and environmental policy.

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Update on F-gases

Following the Political Agreement in the Council of Ministers on the proposal for a regulation on certain fluorinated greenhouse gases in October 2004, the Council services are still translating and checking the different language versions. The adoption of a formal Common Position is now expected for March/April 2005.

The European Parliament will only start its Second Reading once it has formally received the Council's Common Position. This is expected for April/May 2005. However, the Rapporteur, Avril Doyle MEP (Ireland, Conservative) and the coordinators from the different political groups met for a first meeting on 2 February to discuss the dossier and the way to proceed on it. At the meeting, it was decided to proceed with a Second Reading rather than starting again from scratch (this was an option following the elections and the enlargement of the EU).

Procedural challenges

Although EPEE was against the European Parliament re-opening the dossier from scratch, the Second Reading remains equally challenging. Under "normal" circumstances (i.e. when no elections interrupt the legislative procedure), procedural rules limit the type of amendments that can be tabled in Second Reading. But because elections took place, the situation is slightly different. It has been agreed that all dossiers awaiting Second Reading at the moment of the elections will be submitted to an "open" 2nd reading. The final word lies with the Chairman of the Environment Committee, Karl-Heinz Florenz (e.g. bans that were rejected in 1st reading and in the Council Common Position may re-appear now). Therefore, it will be easier for "green" MEPs to table and

vote amendments that change the position adopted in First Reading. Industry will have to convince its "allied" MEPs to vote against such amendments and to broadly keep the First Reading position.

Content challenges

Because of the more open procedural rules, there is a threat that the Parliament changes the legal base of the proposal in order to make it greener (i.e. from dual legal base to 175 EC Treaty). The new Rapporteur has asked legal advice on the workability of the dual legal base as in the Common Position.

If it chooses to do so and base the proposal on a more environmental legal base, Member States will have the possibility to adopt more stringent measures at national level than those foreseen in the proposal. This would distort competition between the market players based in the different Member States.

Another threat is the extension of the list of bans included in the proposal which derives from the wish to make the proposal greener. Currently, the list of bans of products and equipment containing f-gases is fairly limited and broadly acceptable for the industry. Therefore, industry has to ensure that no further bans are added by the Parliament and that Member States do not obtain the possibility to add further bans individually at national level, such as on domestic fridges and RAC equipment. Such bans had been proposed previously but were rejected by the Parliament and the Council. Industry also has to ensure that no "backdoor" bans are introduced via overly excessive and strong containment, training and recycling provisions which as a de facto ban on use.

Finally, it appears that many MEPs may be tempted to change the containment

approach to a stricter approach based on phase-out and bans because the latter approach is more visible and can be better sold to the general public. MEPs could be tempted to take hasty decisions without thoroughly examining or understanding the real effect of such. This could lead the issue to be caught up in institutional or individual MEP muscle flexing rather than to real positions.

Update on WEEE/RoHS

By 13 August 2004, EU Member States were scheduled to have transposed the Directives on waste electrical and electronic equipment (WEEE) and on restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS) into their national law. This has not yet happened in the majority of Member States.

Several impelmenting problems have been raised.

Currently, the Technical Adaptation Committee (TAC) to the Directives, chaired by the European Commission and composed of Member State representatives, is considering follow up implementing issues for Directives. The TAC is mainly looking at the scope of the WEEE Directive, in particular in relation to "grey" area products, and at additional exemptions to the RoHS Directive.

WEEE

Very recently, the TAC adopted a decision on monitoring compliance of Member States with recovery and recycling targets. It also held preliminary discussions on amending Annex II of the Directive (selective treatment of material and components). In addition, the Commission intends to publish non-binding guidelines on the treatment of "grey area"

products (what falls within the scope of the Directive and what does not; e.g. split RAC systems) in Q2 2005.

RoHS

In December 2004, the TAC adopted a number of additional exemptions to the RoHS Directive. Most of them related to lead and cadmium and its compounds. In addition, the European Commission has launched a formal consultation on additional exemptions. Interested parties can submit comments until 11 February. Considered exemptions include deca-BDE and the use of non-RoHS compliant parts from old electrical and electronic equipment in the manufacture of new equipment.

Further TAC meetings will be held in February and in mid-March.

REACH – the Chemicals Review

Following on from a White Paper on a Strategy for a future Chemicals Policy of 2001, and extensive stakeholder consultations, the European Commission presented its proposal for a Regulation concerning the Registration, Evaluation, Authorisation and Restrictions of Chemicals (REACH) in October 2003.

This legislation affects manufacturers, distributors and importers as well as downstream users. Companies who manufacture or import articles (finished products) containing certain types of chemicals will need to supply data on the properties of their chemicals, develop chemical safety assessments and implement risk management measures.

Exchanges of views and discussions at working group level at the Council and European Parliament have focused on the following aspects of REACH:

- Scope;
- Registration (prioritisation of substances – high risk/volume should be dealt with first, pre-registration);
- Authorisation process (substitution, timing);
- Information (safeguards for business-sensitive information, information to consumers vs. confidentiality);
- Animal testing (mandatory data-sharing for animal test data);
- The European Chemicals Agency (role, powers, structure etc.);
- Trade implications;
- Cost and paperwork implications, particularly for SMEs.

On 19 January, a major stakeholder hearing took place in the European Parliament. It was organised by the Environment, Industry and Internal Market committees that are leading jointly on the proposal.

At the stakeholder hearing, the trade impacts and the implications for industry of REACH were debated. The Industry Commissioner Günter Verheugen said that the Commission expects industry in the EU to have a competitive disadvantage in the short-term when REACH comes into force, but that there was no way to avoid this.

Verheugen also pointed to a series of targeted case studies on the impact of REACH which should be completed in March 2005 and provide more clarification to industry.

First Reading discussions in the Parliament are now underway and the Parliament hopes to complete its First Reading by September 2005. This could enable European ministers to reach a formal political agreement by the end of the year.

EuP – Directive for Eco-Design Requirements for Energy Using Products

In the Summer of 2003, the Commission adopted a Framework Directive on Eco-Design, the aim of which was to ensure the free movement of energy-using products within the EU, improve the overall environmental performance of these products, contribute to the security of energy supply, and generally enhance the competitiveness of the EU economy. The proposal defines conditions and criteria for setting requirements regarding environmentally relevant product characteristics (such as energy consumption).

The European Parliament adopted its 1st reading position on the Framework Proposal in April 2004, in which a dual legal base (Articles 95 and 175) was proposed. It included in Annex 1 a list of priority products to be tackled by the Directive first. These included heating and water equipment, ventilation and air-conditioning systems (HVAC).

The Council reached a Common Position in November 2004, in which it defined Article 95 (Internal Market legal base) as the sole legal base. The Common Position called for the Commission to produce an indicative list of products which are to be subject to implementing measures. It is widely expected that HVAC products will feature on this list, which still has to be produced.

The Directive is now in Second Reading at the EP, with Frederique Ries (ALDE, Belgium) acting as Rapporteur on the issue. Ms. Ries' draft report was discussed in the Committee on 3 February. According to her, ministers have incorporated "only a few important requests" from the parliament's First Reading. In her view, this is not enough. Therefore, a number of her

amendments are the same than in First Reading. Amendment 16 specifically mentions products HVAC again as priority products which have been identified as offering a high potential for cost-effective reduction of greenhouse gas emissions.

The deadline for amendments in Committee is scheduled for 17 February. A Committee vote is scheduled for March 15th and a Plenary vote expected in April 2005.

Energy Performance of Buildings Directive -- EPB

The European Commission adopted a proposal on the Directive on The Energy Performance of Buildings in May 2001. The final Directive was jointly adopted by the European Parliament and the Council in November 2002. It entered into force in January 2003. Its provisions will become legally binding in January 2006.

The objectives of the Directive on the Energy Performance of Buildings (EPB) are twofold: to promote the improvement of the energy performance of buildings within the EU through cost effective measures, and to promote the convergence of building standards towards those of Member States which already have ambitious levels.

The means to this end to be implemented by Member States are

- A general framework for a methodology of calculation of the integrated performance of buildings ;
- The setting minimum standards in new and existing buildings;
- The energy certification of buildings; and
- The inspection and assessment of heating and cooling installations; In particular, Member States shall lay down the necessary measures to establish a

'regular' inspection of air-conditioning systems of an effective rated output of more than 12 kW.

The EPB Directive covers new and old buildings, the residential sector as well as the tertiary sector (office, public buildings, etc) and aims to establish an integrated approach, covering all aspects of energy efficiency in buildings. The provisions on certification include exemptions for, among others, historic building and industrial sites.

Current Status

The minimum requirements for the energy performance of buildings are expected to be legally binding in the Member States by January 2006. At that point, energy certificates will be a requirement and inspections for heating and cooling devices will have to be organised under an established system.

There is an additional 3-year transition period to allow Member States to apply the provisions of Articles 7, *Energy Performance Certificates*, Article 8 *Inspection of Boilers* and Article 9 *Inspection of Air Conditioning Systems*. This will allow Member States to develop suitable energy rating systems and certification schemes for all buildings that fall within the scope of the Directive, as well as taking into account the amount of time needed for the accreditation and training of sufficient personnel to undertake the energy performance assessments.

Commission work programme

The European Commission published its official work programme at the end of January. It confirms that climate change remains a priority for the new Commission. Key initiatives in this area include a Communication on future policy – looking to

post-2012 period - to be made public in February. This will then be presented to the Spring European Council.

The Commission work programme also mentions a forthcoming Green Paper on a European Energy Efficiency initiative. Green Papers are discussion papers: they present Commission policy orientations to interested parties, who may wish to comment. The Commission may then prepare a Communication or propose binding instruments.

The energy efficiency paper will set forth policy options and possible measures to be carried out in the next five years and their expected results. It will identify market barriers which prevent capturing the existing

20% cost-effective savings potential. According to the Commission, delivering these savings will contribute significantly to meeting the Kyoto commitment, as well as to improving security of supply, competitiveness and employment in the EU. The Green paper will also explain what has been done until now and where the EU is regards energy efficiency. It will cover the areas of heat, electricity and transport and all the end-use sectors.

The Green Paper is expected to be launched in Q2 2005. it will form the basis of a consultation organized by DG Transport and Energy (TREN), the lead service within the European Commission on this dossier.

U P C O M I N G E V E N T S C A L E N D A R

22 February	Steering Committee meeting in Brussels
30 March:	Communication working group meeting (Brussels)
Late May/June:	Energy efficiency group meeting (Brussels)) date TBC.

Please submit items for EPEE NEWS and the UPCOMING EVENTS CALENDAR to <mailto:secretariat@epeeglobal.org>