Retail and Wholesale comments to ECHA PFAS consultation

Substances covered in the Regulation (EU) No 517/2014 on fluorinated greenhouse gases should be exempted from the PFAS regulation

The PFAS restriction proposal overlaps with F-gas regulation. Fluorinated gases are already strictly controlled in the F-gas regulation, and companies have made their investments and planning according to provisions and transition periods in that regulation, also already anticipating those to come soon in the revision of the current F-gas regulation. Overlaps create great uncertainty among those who need to make longer-term investment decisions now.

For the sake of overall sustainability, it is important that expensive equipment, facilities and buildings, for example, can be used up to their anticipated end of life.

The competitiveness of the EU companies and value chains should not be compromised

The derogations in paragraphs 4 and 5 do not at present cover the precursors, raw materials, or auxiliary agents of the final products. These need to be addressed in the derogations as well as R&D, so that distributors can continue providing the manufacturing industry in the EU with the raw materials needed for innovations and development of products in the EU.

The list of exemptions should remain open-ended. The unique properties of PFAS substances, including their favorable toxicological profile, make them challenging to replace. Products of lower quality and performance are not well received by customers or consumers. In the worst case, such products would compromise safety and cause loss of valuable resources.

It should be possible to extend the list of exemptions or transition period, if no alternatives, which provide overall comparable or increased safety for the application is found and important value chain as well as in some cases even critical autonomy might be otherwise lost in the EU.

Why are exemptions essential for the field of refrigeration and air conditioning technology for society as a whole and why are no suitable alternatives available?

- Retailors would be affected by a ban on PFAS in the areas of heating, air conditioning and refrigeration. This is because PFAS are used in different forms in the areas mentioned.
  On the one hand, as a component of refrigerants, in particular in those alternatives that are affected by the amendment of the F-Gas Regulation as a replacement for those affected by the upcoming bans.
  On the other hand, it is also used as material in technical hydraulic components with special properties. These include compressors, pumps, valves and cylinders. PFAS are used here in seals, hoses, pipes, valves or even in coatings. Substitution of PFAS in these special areas is

often not possible. This is because either there is a lack of alternatives or the special performance of PFAS cannot be achieved to the extent necessary to guarantee the functionalities of these components. Due to the complete ban, neither the production of these components in the economic area itself nor their import from outside would be possible.

- For the food trade, a ban on PFAS would have the following consequences:
    - Any refrigeration technology that is used for safe storage and for offering food requiring refrigeration would no longer be permitted after the transitional periods have expired.
        - This would make it virtually impossible to supply the population with goods requiring refrigeration in compliance with today's hygienic standards.
    - A large proportion of climate-relevant emissions in the food trade result from refrigeration technology. In this respect, the switch to more climate-friendly refrigerants offers a great deal of leverage for food retailers to minimise greenhouse gas emissions and thus contribute to climate targets in Germany and Europe.

      However, due to a lack of alternatives, a general ban on PFAS would prevent a switch to more climate-friendly alternatives. A change before the ban is also hindered by the limited personnel capacities at refrigeration companies and industry.
    - In addition, the proportion of food waste would also increase drastically, as refrigeration in the market contributes to a longer shelf life of sensitive products.
    - However, this does not exclusively apply to the production and trade of foodstuffs. Medical products (including vaccines) would also be affected by a PFAS ban.

Are you in favour of exemptions for the entire refrigeration and air conditioning sector? If so, what is the duration of the exemptions?

- Due to the systemically importance of refrigeration technology – including for the supply of the population – exemptions should apply to the entire field of refrigeration and air conditioning technology.

Recycling

All previous articles -treated for water repellence and subjected in future to be recycled will contain PFAS and will generate a detectable amount of Fluorine in new articles using this recycled material. There could be a risk in the future to find PFAS regarding the development of recycling. The question is, if there is an exemption to grant, and at which amount, for articles using material sourced exclusively from recycling for some usage.

Description of analytical methods

In relation to current testing methods and the textile industry, it should be highlighted the limitations on fluorine content: the methods available for determining total fluorine in textiles and leather (e.g., EN 14582:2016 and ASTM D7359:2018) are unable to reliably distinguish between organic and inorganic fluorine in those substrates. Intentional use of PFAS in the textile sector is likely to result in concentrations of at least several thousand ppm total fluorine in relevant components of articles in most circumstances.

However, PFAS may be present in components of finished articles in the hundreds of ppm even if not intentionally added. The detected fluorine may be present due to unintentional PFAS contamination or the presence of non-PFAS fluorine-containing compounds such as fluoride salts used upstream in the supply chain. For example, chemical formulations utilizing inorganic fluorine compounds, e.g., fluoride salts, are used in various textile manufacturing processes.

For this purpose, the draft restriction includes an exception under paragraph 2. ii) in case the value is total fluorine exceeds 50 mg F/kg and the manufacturer, importer or downstream user submit a proof to authorities demonstrating that the fluorine measured is or inorganic sources.

This situation would lead into legal defencelessness in the industry due to a lack of a proper test method to ensure the compliance of the goods manufactured or sold in EU and a huge uncertainty on the acceptable proof by authorities in case of inorganic fluorine sources in the products.

WE suggest that EU Commission support the rapid development of a validated test method capable of reliably differentiating between inorganic and organic fluorine in textile and leather substrates (including related trims) to avoid inadvertently prohibiting fluorine-containing compounds that are not PFAS.