

REACH restriction on PFHxA

Explanatory Note

January 2024

Textile and apparel manufacturing is an essential pillar of local economy across the EU regions which comprises of 192,000 companies and employs 1.3 million workers. The European Apparel and Textile Confederation (EURATEX) oversees the overall value chain, including textile services.

Following the publication of a revised draft REACH restriction on undecafluorohexanoic acid (PFHxA), its salts and PFHxA-related substances, which was discussed at the REACH Committee meeting on 14 December 2023¹, EURATEX and its members would like to point out two serious issues with this proposal.

We also emphasise the need for proper enforcement of this restriction to ensure that products coming into the EU would comply with these new rules as well.

Issues with the Commission's revised proposal

EURATEX sees the PFHxA restriction a good way to restrict the usage in everyday consumer clothing, such as rain jackets and related accessories, such as handbags. We find this scope to be an important step forward to restrict the use of PFHxA in consumer textile articles where these substances are not needed.

However, this type of chemistry is still needed due to its special properties, where a combination of water, oil, dirt, and chemical repellence and resistance to viruses and bacteria is needed. This important point was also recently echoed by a German parliamentary group², who emphasised that per- and polyfluorinated alkyl group's substances are needed to meet special demands.

Although the Commission's proposal emphasises the need to phase out PFHxA in regular consumer goods, the current text will restrict many important textiles, which need to fulfil safety and product standards.

- **Technical textiles and strategic resilience of textiles in Europe**

The Recital 16 and 17 outline textile specific products that would be restricted and also some use cases that would be outside of the scope. While the Commission has included a derogation for medical textiles and construction textiles, this text would still prohibit many technical applications, which require product and safety standards only reached with using PFHxA.

¹ COMMISSION REGULATION (EU) .../... of XXX amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council as regards undecafluorohexanoic acid (PFHxA), its salts and PFHxA-related substances <https://ec.europa.eu/transparency/comitology-register/screen/documents/090483/4/consult?lang=en>

² Unionsfraktion fordert Eintreten gegen PFAS-Verbot. Deutscher Bundestag. <https://www.bundestag.de/presse/hib/kurzmeldungen-984336>

For example, textiles are used in engine bays, where they have specific requirements to meet. They need to be fuel-repellent, flame-protected for aircrafts, ships, railways and the public transport system, breathable membrane textiles with separating function for aircraft construction.

With the current revised proposal from the Commission, these types of textiles in consumer transport or transport services would lose the ability to use PFHxA. As these textiles are there to ensure that the machinery is working properly, then it would be highly impractical to ban such a use. The need for a derogation for engine bays in transport and non-road mobile machinery was also supported by ECHA's SEAC³.

Secondly, EURATEX urges not to misinterpret and mix the definitions between clothing and technical textiles, which are textiles fibres, materials and support materials meeting technical rather than aesthetic criteria. They bring a functional answer to a wide range of specific requirements such as resistance, fire-retardancy, insulation, filtration. The definition does not depend on the raw material, the fibre or the technology used, but on the end-use of the product itself. They are not made for fashion purposes like clothing, but they help products function and provide special properties and safety solutions.

Technical textiles are also vital to the resilience of Europe in terms of withstand crises, disturbances and these materials help to practically implement the goals of the EU Green Deal and energy transition.

- **Lack of protection for general public who needs personal protective equipment (PPE)**

As outlined above, regular everyday consumer clothes do not need PFHxA. However, while most PPE is used by workers and are for professional or industrial settings, PPE is always designed to protect the user and to manage the risks the user might face.

Therefore, a user who needs PPE outside of a professional setting, should be able to have access. PPE articles are required to comply with the highest degree of safety and performance standards and this restriction should not put general public in a disadvantage if they need specialised PPE.

While the Commission's revision mentions some PPE Category III risk, it is not including all the risks and Categories I and II are not mentioned, which means consumers will not be provided adequate protection if they need specialised PPE.

Under Cat. III an example is PFHxA treated protective legwear, which are used when managing a hand-held chainsaw⁴. If the fabric is not oil repellent the oil penetrates and changes the protective property of the inlays against chainsaws. While this type of safety equipment is needed for logging workers, theoretically they would also be sold in specialised stores for consumers who need protective gear when they manage this specific machinery. Unfortunately the current Commission proposal would leave citizens needing this protection in a large risk of an injury.

³ ECHA Opinion on an Annex XV dossier proposing restrictions on undecafluorohexanoic acid (PFHxA), its salts and related substances. 8 December 2021. <https://echa.europa.eu/documents/10162/97eb5263-90be-ed5-0dd9-7d8c50865c7e>

⁴ PPE Regulation, Category III (j) cuts by hand-held chainsaws, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016R0425>

As for Categories I and II, PPE that would be banned are for example anti-avalanche airbags and motorcyclists' garments and additional protection (e.g. gloves, footwear) for which additional protection is provided (e.g. airbag, impact protectors for limb or back, pads for elbow or shoulders, protection against cuts and abrasion).

Overall, while the use of PPE by consumers is rather occasional, it is still necessary to protect the user from serious accidents. It cannot be justified that the Commission would make it impossible for the public to effectively protect themselves from risks or heal from injuries, as medical textiles are part of technical textiles too. In the case of the latter, we support Commission's derogation on medical textiles and medical devices as outlined in the proposal from December.

EURATEX proposal

To tackle the two issues outlined above EURATEX stresses the need to ensure:

1. Technical textiles, where PFHxA is needed remains out of the scope of the restriction

"Technical textiles" in this sense is a collective term for textile materials (such as woven fabrics, knitted fabrics, nonwovens, felts) and textile manufactured products made from them that are used primarily for their technical and functional properties and not for their aesthetic and decorative character. Thus, this definition serves to distinguish them from traditional textiles used by consumers as clothing and home textiles.

The finishing of technical textiles with fluorinated chemicals is therefore not an end but is essential for the fulfilment of regulatory and normative requirements. EURATEX therefore proposes to link the restriction in the field of "Technical Textiles" to a technical value that meets the fulfilment product and safety requirements. This would also ensure that not every technical textile will receive a derogation, as there are many technical textiles which do not require oil repellence in combination with other characteristics, such as water, stain, biological, blood and chemicals repellence.

EURATEX proposes the following derogation:

Paragraphs 1 and 2 shall not apply to technical textiles for which one or both the following criteria can apply:

- *a maximum repellence to liquids and dust of 27.5 (mN/m) according to DIN EN ISO 14419:2010-08*
- *a minimum oil note 3 is required*

and the use has serious effects on the textile functionality and normative requirements for the safety and health of the consumer or other persons are mandatory. These derogation criteria apply but are not limited to:

- *personal protective equipment intended to protect users against risks as specified in Regulation (EU) 2016/425 of the European Parliament and of the Council;*
- *medical devices as specified in Regulation (EU) 2017/745 of the European Parliament and of the Council; woven, knitted and nonwoven medical textiles as specified in Regulation (EU) 2017/745 of the European Parliament and of the Council"*

The Oil Notes are used in testing⁵. When manufacturing textiles, then the industry needs comply with different standards, which include EU legislation, EU/national standards, ISO standards, Technical Performance Profile, EU industrial standards (VDI-, IMO-, BDLI-, ESA-), and other global legislation and standards.

The main idea behind our proposal is that textiles, which do not need to pass a safety or product standards of Oil Note 3 and higher can manage without PFHxA. The same goes for textiles which only need to be water repellent – they would fail this Oil Note 3 test and since oil repellence is not needed, then these textiles would be in the scope of the restriction.

As PPE and medical textiles are part of technical textiles, they are added as a reference to where the derogation would apply. This would also ensure that the derogation does not apply to all PPE – but just the ones which need this level of oil repellence.

The PPE Regulation specifically focuses on the protection of the “user” and the production of PPE comes ultimately down to risk. The function of protective clothing used in the context of occupational safety is to protect the wearer (employee) from harmful influence during work. This damage can be thermal, mechanical, chemicals or other physical nature. Here, consumers who are exposed to these risks in their private life should also be able to still equip themselves to be protected.

An additional reason for us to offer this measurement is that it is in line with the USA standards⁶, which is important due to global value chains. Furthermore, it is a good way for market surveillance authorities in the future to enforce the restriction as a test method would already be in place.

2. Legal clarity of “general public”

While the EU legislation does not have a clear definition what general public means, it is of high importance for the industry and national Competent Authorities to ensure compliance. Therefore EURATEX proposes an addition to Recital 17 to clarify the scope:

“These exemptions do not apply to textiles intended for private use. This is the case if they are intended for use by the consumer within the meaning of Article 2 (2) of Directive (EU) 2019/771. Accordingly, a consumer is any natural person who uses textiles outside their trade, business, craft or profession. The general public does not include the use of products by consumers for which an EU conformity assessment procedure is required following Annex II Module B of Decision No 768/2008/EC. Products subject to EU-type examination are only intended for a narrowly defined range of consumers who require particularly stringent authorisation due to the level of risk involved.”

EURATEX and its members remain at the disposal of Public Authorities to ensure that the restriction is designed to be effective and not bring unwanted consequences.

⁵ AATCC 118: Oil Repellency: Hydrocarbon Resilience Test,
<https://law.resource.org/pub/us/cfr/ibr/001/aatcc.tn.118.1997.pdf>

⁶ AATCC Test Method 118-1997 is equivalent to the ISO 14419 standard in EURATEX proposal.