



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
Single Market Enforcement
Notification of Regulatory Barriers

Notification Number : 2024/0646/DK (Denmark)

Order prohibiting the import and sale to consumers of clothing, footwear and waterproofing agents containing PFAS

Date received : 27/11/2024

End of Standstill : 28/02/2025

Message

Message 001

Communication from the Commission - TRIS/(2024) 3166

Directive (EU) 2015/1535

Notification: 2024/0646/DK

Notification of a draft text from a Member State

Notification - Notificación - Notifizierung - Нотификация - Oznámení - Notifikation - Γνωστοποίηση - Notificación - Teavitamine - Ilmoitus - Obavijest - Bejelentés - Notifica - Pranešimas - Paziņojums - Notifika - Kennisgeving - Zawiadomienie - Notificação - Notificare - Oznámenie - Obvestilo - Anmälan - Fógra a thabhairt

Does not open the delays - N'ouvre pas de délai - Kein Fristbeginn - Не се предвижда период на прекъсване - Nezahajuje prodlení - Fristerne indledes ikke - Καμία έναρξη προθεσμίας - No abre el plazo - Viivituste perioodi ei avata - Määräaika ei ala tästä - Ne otvara razdoblje kašnjenja - Nem nyitja meg a késésket - Non fa decorrere la mora - Atidējimai nepradedami - Atlikšanas laikposms nesākas - Ma jiftaħ il-perijodi ta' dewmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Nu deschide perioadele de stagnare - Nezačína oneskorenia - Ne uvaja zamud - Inleder ingen frist - Ní osclaíonn sé na moilleanna

MSG: 20243166.EN

1. MSG 001 IND 2024 0646 DK EN 27-11-2024 DK NOTIF

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4. 2024/0646/DK - C00C - CHEMICALS



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5. Order prohibiting the import and sale to consumers of clothing, footwear and waterproofing agents containing PFAS

6. Clothing, footwear and consumer waterproofing agents containing PFAS.

7.

8. The draft Order introduces national provisions on the restriction of PFAS in clothing, footwear, and waterproofing agents for clothing and footwear for consumers, which fall within the scope of the draft general PFAS restriction, and the national provisions are repealed when the expected EU rules apply.

The Order is expected to enter into force on 1 July 2025. The prohibition on the import and sale itself will apply from 1 July 2026. If the covered goods are imported before 1 July 2026, the goods may continue to be sold until 1 January 2027.

The definition provisions of the draft Order are worded to correspond to the draft general PFAS restriction and existing EU chemicals legislation.

PFAS is defined as any substance containing at least one fully fluorinated methyl (CF₃) or methylene (CF₂) carbon atom, without any hydrogen, chlorine, bromine or iodine atoms attached to it.

The definition in the draft general PFAS restriction originates from OECD (2021), Reconciling Terminology of the Universe of Per- and Polyfluoroalkyl Substances: Recommendations and Practical Guidance, OECD Series on Risk Management, No. 61, Published by the OECD, Paris. See the following link:

<https://www.oecd-ilibrary.org/docserver/e458e796-en.pdf?expires=1723707315&id=id&accname=guest&checksum=54500D1DDD535C521159BDB53ABE653C>.

Prohibition on the import and sale: The draft Order contains a prohibition, applicable from 1 July 2026, on the import and sale of clothing, footwear and waterproofing agents for clothing and footwear, where these consumer products, as the final product, contain PFAS in concentrations greater than 50 mg F/kg.

Scope: The prohibition applies to the import and sale to consumers for private use, including consumers' own imports, e.g. when shopping online. Production and exports are exempted. Reuse and recycling are also exempted, as it will not be possible to ensure that clothing, textiles, and fibres imported and sold before the prohibition applies do not contain PFAS in the recycling situation.

Product categories: The draft Order contains a prohibition on the import and sale of clothing, footwear, and waterproofing agents for clothing and footwear with PFAS to consumers for private use in Denmark. The product categories have been selected on the basis of the Ministry of Environment and Gender Equality's knowledge that these consumer categories result in significant emissions of PFAS, and thus their prohibition will have a significant environmental impact. At the same time, the Ministry of Environment and Gender Equality has also emphasised that it can be expected that alternatives to consumer uses are available on the market. For professional clothing in the form of safety clothing, etc., it is not expected that alternatives will be available on the market sufficiently quickly. This type of clothing falls outside the scope of the Order.

Personal protective equipment intended to protect users against the risks specified in Regulation (EU) 2016/425, Annex I, risk category III (a) or (c), is exempted in the draft Order. At the same time, this exemption is contained in the draft general PFAS restriction. Personal protective equipment, where PFAS constitutes a safety function for the user, is also exempted.

Similarly, other textiles, such as home textiles, curtains, textiles in strollers, and accessories, are not included, as there is not the same knowledge about the availability of alternatives, costs, etc. At the same time, the consumption of textiles for clothing is assessed to be significantly larger and a larger source of PFAS in the environment and therefore more



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important to regulate in order to limit the total amount of PFAS in the environment.

PFAS in clothing, footwear and waterproofing agents, which are already regulated by either Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) or Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants (recast), as amended, are also exempted from the draft Order.

Medical devices, as defined in Article 2(1) of Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, are exempted. Finally, transit cargo is exempted.

Threshold value: It is proposed that a threshold value be set so that the prohibition regulates PFAS in clothing, footwear, and waterproofing agents for clothing and footwear for consumers where PFAS has been deliberately used in order to achieve a function, such as water-repellent properties. In this way, it is expected that unintended contaminants from production processes will not lead to an exceedance of the threshold value. In choosing the threshold value, the Ministry of Environment and Gender Equality has emphasised that the vast majority of products within textiles for clothing, for example made water-repellent, contain much higher concentrations than 50 mg F/kg, and that concentrations below 50 mg F/kg can be considered unintentional trace contaminants.

At the same time, as mentioned above, the Ministry of Environment and Gender Equality has requested that the Danish draft Order be formulated to correspond to the draft general PFAS restriction. In this context, it is noted that a threshold value of 50 mg F/kg corresponds to one of the threshold values set out in the draft general PFAS restriction.

It is further assessed that the test method for measuring the fluorine content is cheaper for companies and control authorities than the method for measuring the sum of the individual measurable PFAS.

Documentary evidence: The draft general PFAS restriction provides that if the total fluorine content exceeds 50 mg F/kg, the manufacturer, importer or downstream user shall, upon request from enforcement authorities, provide evidence that the measured fluorine content is PFAS or non-PFAS. An exemption clause is introduced in the draft Order for the prohibition of the import and sale of clothing, footwear, and waterproofing agents for clothing and footwear to consumers if the importer or downstream user can demonstrate that the fluorine content comes from a substance that is not PFAS. The Ministry of Environment and Gender Equality has assessed that it would be appropriate to introduce a possible exemption similar to the draft general PFAS restriction, but which does not impose an obligation on the importer or downstream user, but rather provides an opportunity to present documentary evidence that a measured fluorine concentration above the threshold value is a result of the use of PFAS, as the draft Order, unlike the draft general PFAS restriction, only introduces one threshold value against which a measured concentration of fluorine must be compared.

The provision is issued on the basis of Section 38f of the Chemicals Act.

Transitional period: Having regard to the industry's global production chains from the design, ordering, production, and distribution sectors, a transitional measure of one year from the entry into force of the Order is introduced, so that the prohibition on the sale and import will apply from 1 July 2026. The sale of stocks of clothing, footwear and waterproofing agents is allowed until 1 January 2027 in order to facilitate the emptying of companies' stock products.

In addition, the Order implements an authorisation in Sections 45(1) and 59(4) of the Chemicals Act. Thus, it is the Environmental Protection Agency which supervises compliance with the rules laid down in the Order. In exceptional cases, the Environmental Protection Agency may decide to derogate from the rules laid down in this Order and may impose conditions on the permit. These decisions are not subject to appeal. Since this is a specific assessment of when a particular case arises, it is thus not possible to give an example of situations which could be exempted from the prohibition.

Infringements of the prohibitions of the Order may be penalised by a fine and imprisonment, depending on the nature of the infringement.



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9. The desire to regulate PFAS nationally arose in particular following a spill from a fire school in Korsør, Denmark, where members of a cattle grazing association were exposed to high levels of PFOS because they ate meat from cattle that had grazed on areas adjacent to a fire drill area. Contaminants with high concentrations with PFOS have also been found in a number of other fire drill sites.

PFAS remains an issue of concern to the Danish government and the Danish population. The Danish government's platform from 2022 states that the government 'will work for a prohibition on PFAS substances at the EU level and take initiatives to limit their use in Denmark, just as the government will ensure reduced use of hazardous chemicals, including in consumer goods'.

It is considered that an environmental benefit can be achieved by a national prohibition, since approximately 40 per cent of all PFAS used and marketed are contained in textiles and waterproofing agents. Consumer clothing and footwear account for over 80 % of the marketed textiles. On the basis of this information, the Ministry of Environment and Gender Equality has estimated that a temporary national prohibition on PFAS in clothing, footwear and waterproofing agents for consumers will limit emissions of PFAS to the environment in Denmark in the range of 200-300 tonnes per year, which corresponds to approximately 35-50 per cent of the estimated total emissions from the production and marketing of products.

In February 2024, the then Ministry of Environment published a mass flow analysis, Substance Flow Analysis of PFASs in Denmark. See the following link: <https://mim.dk/media/ae3o5ayj/substance-flow-analysis-of-pfas-20-feb.pdf>. In the analysis, the consulting firm COWI examined the current import and use of PFAS in Denmark. Based on current knowledge, the analysis provides an overview of the largest sources of PFAS emissions and shows how PFAS is released into the environment in Denmark, including from its use in textiles.

The mass flow analysis finds that the largest contribution to PFAS emissions in Denmark from textiles comes from the use of polymers with PFAS side chains. The use of clothing and shoes is responsible for a discharge of 2.3 tonnes of PFAS per year, while waste treatment of clothing and shoes results in a discharge of approximately 380 tonnes of PFAS per year, of which approximately half is exported, whereby the discharge takes place outside Denmark.

In May 2024, the government published a PFAS action plan, which all parties in the Danish Parliament supported. The draft Order, which is now being notified, is an initiative under this action plan.

The Order was issued pursuant to Sections 30(1), 38f, 45(1), and 59(4) of the Chemicals Act, cf. Consolidation Act No 6 of 4 January 2023.

10. References in the basic text: 2023/0390/DK

Basic texts have been forwarded as part of an earlier notification:
2023/0390/DK

11. No

12.

13. No

14. No

15. Yes

16.



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TBT aspects: No

SPS aspects: No

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