Cosmetics Europe
the personal care association

Cosmetics Europe comments to notification to TRIS by France 2025/0431

Draft Decree on the prevention of risks arising from exposure to per- and polyfluoroalkyl substances

Background

The French Law No 2025-188 of 27 February 2025 on the protection of the population from risks associated with per- and polyfluoroalkyl substances (PFAS) (the "Law") provides for a ban on the use of PFAS above a residual concentration value for cosmetics, ski wax and textiles.

The draft decree that is the subject of France's notification to TRIS (the "Draft Decree") is adopted pursuant to Article 1(1) of this Law. The Draft Decree defines the PFAS concentration value beyond which the prohibitions on the use of PFAS in that Article apply, and it establishes a list of products that are exempt from these prohibitions.

This Draft Decree is expected to be published in December 2025[1] with the ban coming into effect on 1 January 2026 (Article 1(1), Law), allowing for no transition period for companies to adapt.

This ban is being introduced at the national level, by taking over the threshold values of a restriction project still under discussion at the European level and which is still being evaluated as to its feasibility. The thresholds defined in the Draft Decree go well beyond direct addition and cover unintentional residual traces (while the French legislator only wanted to target intentional uses).

Cosmetics Europe believes that the French Draft Decree as it currently stands (i) goes against the overall European Union principle of Free movement of goods, (ii) is not in compliance with the harmonised processes on substances both under REACH and the Cosmetic Products Regulation (CPR) and (iii) should be aligned with ongoing discussions at the level of the EU.

The French Draft Decree is against the Principle of Free movement of goods and should be aligned with current discussions under European law

Firstly, this project coincides with a period in which the European legislative calendar anticipates the imminent adoption of harmonised PFAS restrictions applicable across the entire European Single Market[2]. The implementation of early, more restrictive national measures could introduce technical barriers that may negatively impact the competitiveness of European cosmetic companies. There is a genuine risk of market fragmentation within Europe, potentially resulting in a loss of competitiveness without demonstrable benefits for human or environmental safety, especially considering that

[1] This is specified in the TRIS notification message, accompanying the TRIS notification 2025/0431
[2] All news - ECHA

comprehensive European-wide regulation is forthcoming. By creating unjustified restrictions to the free movement of goods, the Draft Decree infringes EU Internal Market rules.

Secondly, while the European proposed restriction framework under REACH allows for an 18-month transition period, the French Draft Decree does not provide any opportunity for companies to adapt to the new regulations.

Thirdly, the law references the REACH definition of "placing on the market," which differs from the definition established under European Cosmetics Regulation 1223/2009. Given that only the CPR addresses human safety for cosmetics and includes provisions to restrict cosmetic substances, alignment with this regulation is essential. Furthermore, it is important to note that the French ban affects not only products placed on the French market but also those exported within the EU. This restriction constitutes a barrier to the free movement of goods and results in a distortion of competition across Europe.

Finally, the French Draft Decree will enter into force at a moment where there are still no harmonized methodologies for detecting PFAS, which again contributes to fragmented assessments with an impact on the Internal Market, absent agreed methodologies.

The French Draft Decree is not aligned with REACH nor with the European Cosmetics Product Regulation (CPR) EC 1223/2009

Cosmetics Europe respectfully submits that the French Draft Decree goes against the principles of free movement laid down both under REACH (articles 128 and 129) and the CPR (articles 9, 14, 27 and 31).

The very spirit of both REACH and the CPR is to have restrictions of substances harmonised at the level of the European Union and not by individual Member States. For cosmetics, REACH regulates the environmental safety of the substances, whilst the CPR covers the human safety aspects.

Article 128 REACH provides that “Member States shall not prohibit, restrict or impede the manufacturing, import, placing on the market or use of a substance, on its own, in a mixture or in an article, falling within the scope of this Regulation”.

The same article however provides that “nothing in this Regulation shall prevent Member States from maintaining or laying down national rules to protect workers, human health and the environment applying **in cases where this Regulation does not harmonise the requirements on manufacture, placing on the market or use (emphasis added).”** The latter exception does however not apply in this specific case, since this regulation does harmonise manufacture, placing on the market and use of PFAS.

Therefore, should France have wanted to restrict the use of PFAS for cosmetics to ensure environmental safety despite REACH, it should have opted for the safeguard procedure described in article 129, REACH.

The same reasoning could be applied for any restriction of a substance under the CPR. Article 9 of the CPR provides for an obligation to not impede the free movement of cosmetics products on the internal market, for products complying with the requirements under the CPR.

Harmonised restrictions for substances under the CPR shall be made based on the articles 14 and 31 of the CPR. The CPR equally contains the possibility for Member States to initiate a safeguard clause process under Article 27 in case they consider that a cosmetic product or products made available on the market present or could present a serious risk to human health.

For PFAS, none of these articles have been triggered by France. It could therefore be concluded that the French Draft Decree has not been adopted on the correct legal basis, as concerns France’s obligations under European law. In the same spirit, it should be noted that if the correct legal basis had

been used under the CPR, it would also have implied reliance on article 17 of the CPR which regulates the acceptance of unavoidable traces for cosmetic products.

Final comment

Cosmetics Europe would like to stress that the cosmetic sector has almost phased out the use of intentionally added PFAS as a cosmetics ingredient, further to an industry wide recommendation[3]. However, PFAS are still used today in industrial applications not covered by the French ban. They are even present as impurities in the manufacturing processes (bolt, pipe fittings, sealing gasket) and drinking water. The application of thresholds covering traces that cannot be controlled or managed by downstream actors, such as cosmetics manufacturers and especially SMEs, creates disproportionate and unbalanced burden on them as well as unacceptable legal uncertainty, particularly in light of the extremely short implementation deadline envisaged by France.

While the intentionally added PFAS ingredient will be prohibited by the French law and the future REACH regulation, in full alignment with industry's self discipline, there is no need to ban traces of PFAS in cosmetic products already regulated by the CPR as sectorial regulation, and in absence of analytical method of reference, far earlier than the forthcoming restriction on PFAS.

Cosmetics Europe therefore calls on the European Commission to examine the Draft Decree towards the EU Internal Market rules and to extend the standstill period as necessary. To the very least, a better alignment between the French Draft Decree and ongoing EU and international efforts to regulate PFAS is required.

Brussels 10 October 2025.

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Cosmetics Europe *is the European trade association for the cosmetics and personal care industry. Our members include cosmetics and personal care manufacturers, as well as associations representing our industry at national level across Europe. Cosmetics Europe has been the voice of the cosmetics and personal care industry in Europe for more than 60 years. Cosmetics Europe key priority is to ensure that consumers have access to safe, innovative and sustainable cosmetics and personal care products, while maximising the potential of our industry for innovation and growth.*

[3] https://cosmeticseurope.eu/resources/cosmetics-europe-recommendation-on-pfas/