



**Public consultation on a possible restriction of hazardous substances
(CMR 1A and 1B) in textile articles and clothing for consumer use under
Article 68(2) of Regulation EC No 1907/2006 (REACH)**

**Vragen publieke consultatie inclusief antwoorden
(afgesteld tussen I&M, VWS, NVWA en RIVM)**

1. Respondent's information

1.1 Your full name:

1.2. Your e-mail address for correspondence:

1.3. I'm replying:

b. On behalf of an organization:

1.3.b.1 If replying on behalf of an organization, please provide the name:
Environmental Safety & Risk Management Directorate
Ministry of Infrastructure and the Environment

1.3.b.2. Is your organization listed in the EU transparency register?

c. Do not know

1.3.b.3. Please specify the organization you represent:

i. Public authority

1.4 Your country:

The Netherlands

1.5. Do you agree to the publication of all information on your contribution:

a. Yes

1.5.a.1 Under what name do you want your contribution to be published? (if
anonymously, leave it empty)

[empty]

2. The definition of the articles covered by the possible restriction

2.1 Is it clear which articles are covered by the possible restriction?

NO

From the present proposal and public consultation, it is unclear where the 80%
w/w is obtained from and what the consequences would be of either lowering or

increasing this percentage. To our understanding the 80% w/w limit is probably taken from Regulation 2011/1007 on textile fibre names and related labelling and marking of the fibre composition of textile products. However, the definition in the 2011/1007 regulation is not necessarily also appropriate for the proposed restriction, especially for assembled or complex articles. For example, we can imagine that the content of textile fibres in a raincoat with plastic outer coating is lower than 80% on a weight basis. If such a coating is not a separate part of the article, the 80% rule would apply to combined fibres and coating as a whole, and hence the raincoat would fall outside the scope of the restriction. But if the plastic coating could be separated from the inner textile part, this latter part would fall inside the scope. This example illustrates due care should be taken in the choice of the percentage defining the scope of an article 68.2 restriction. In addition, consideration should be given to the option to include in the scope textile articles that contain (parts with) non fibrous materials such as polymer coatings.

Further, we would like to suggest clarification on the note in the survey added at 26/11/2015: "*Reason: the scope of the public consultation is extended to cover also textiles and clothing that are considered as toys, such as disguise costumes.*" To our knowledge the toys directive (2009/48/EC) considers disguise costumes as toys. According to this directive, the use of CMR cat 1 and 2 substances shall not be used in toys (see Annex II Particular safety requirements, III Chemicals properties: "3. *Without prejudice to the restrictions referred to in the second paragraph of point 1, substances that are classified as carcinogenic, mutagenic or toxic for reproduction (CMR) of category 1A, 1B or 2 under Regulation (EC) No 1272/2008 shall not be used in toys, in components of toys or in micro-structurally distinct parts of toys.*")

It is also unclear what the consequences are of limiting the restriction to "articles intended for consumer use". Are professional clothings like uniforms, safety clothing and laboratory coats outside the scope of the restriction? And what about laboratory coats used in schools where the pupils may be exposed? In our view this is an important issue to consider carefully (also given the current discussion on the scope of the PAH restriction).

Finally, we suggest verifying interference with existing restrictions, like the toys directive mentioned above or restriction on specific substances (f.e. REACH Annex XVII, entry 20).

2.2 Do you think that the range of articles covered by the possible restriction is appropriate?

NO

From the current art 68.2 proposal, the scoping of the articles included is unclear. In the opinion of the Netherlands, restricting the use of CMR substances via art 68.2 may be considered for those textile articles with direct and long-term contact. This could be through skin contact, but also oral exposure due to sucking can be a relevant exposure route especially for small children. Direct and long-term contact would lead to a concern for consumers via leaching/migration from the textile. This concern would be smaller when there is no direct contact (like may be the case with prints applied on the outside of the textile) or if the contact occurs for only a short time with limited surface and the contact is of low frequency (like may be the case with curtain textile where the curtain is only opened or closed a limited number of times per day).

In our view a distinction could be made between articles clearly having direct and long-term contact resulting in exposure and a group of articles for which this is less clear. From the examples included in the survey, it is the opinion of the Netherlands that the following articles belong to the first group and meet well to the objective to regulate CMR substances in articles with direct and long term skin contact:

- Underwear, nightwear, swimwear, garments, scarfs, ties, handkerchiefs, hats, gloves, socks;
- Footwear, clothing or their parts and accessories made of synthetic/artificial leather;
- Footwear, clothing or their parts and accessories made of artificial furs or hides;
- Some interior articles like towels, bed linen, pillow cases, carpets and other floor coverings.

For other interior articles the exposure is less obvious and – in case of setting priorities - these articles belong in our view to the second group: *hangings and curtains, table mats, table cloths*. Further reflecting on these articles is needed and it could be discussed whether these articles should be included at this moment as this possible restriction should focus on the most likely and most relevant exposure routes (see also our general comment).

Further, from the current scoping it is unclear why real leather and natural furs or hides are outside the scope of the possible restriction. During processing of leather, furs and hides, CMR substances might be used and as a result CMR substances can be present in articles made of these materials as well. Entry 43 of REACH Annex XVII restricting the use of azo-colourants also includes leather articles in its scope.

Also, it is unclear in the current scoping if raw fabrics are covered. These raw fabrics can be used for the production (by companies or by individuals) for several articles: some possibly in the scope (clothes) and some possibly outside the scope (curtains).

Finally, it is important to define the restriction in such a way that it is clear for companies (and enforcement authorities) which analytical methods should be used and which part of the article should be analyzed.

3. Comments on specific CMR substances

Substances in the list

3.1 Are there any substances in the list that are not present in the articles covered by the possible restriction? If you are aware of such substances, please list the relevant ones and provide a justification why it is not likely they would be present (e.g. description of the production process that is used or known to be used).

No specific information available.

The list of classified dyes and carcinogenic amines is strongly related to the substances restricted in entry 43 of REACH Annex XVII and some of the dyes in the proposed list are already restricted according to this entry. Therefore, it is suggested to consider combining the new restriction with entry 43 including using the same scope as it is difficult to explain why some carcinogenic substances are restricted differently from others.

Further, we are not convinced that the petroleum and coal stream substances should be included because these substances are classified based on the presence of either benzene, 1,3-butadiene, benzo[a]pyrene and some other PAHs. These classified substances are not always present as an impurity in the indicated substances above the classification limit. Also it will be very hard to identify these substances as they are normally complex mixtures of several substances (UCVB). Enforcement will therefore be difficult. In our view, it seems more logic only to include those substances responsible for the classification. Note that the amount of PAHs in rubber and plastic components of articles including clothing is already restricted by entry 50 of REACH Annex XVII. Many textiles are synthetic polymers and therefore the PAH content in these textiles is already restricted. It is less likely that PAHs are found in natural textile like cotton. Note further that 1,3-butadiene and benzene are volatile and the amount of possible residues in textile will be very limited. In conclusion: we suggest not including petroleum and coal stream substances of which the classification of CMR is based on the presence of PAH or benzo[a]pyrene.

Finally, looking to the list with other substances we observe several metal compounds. May be it would be more pragmatic to include the metal-ion in the proposed restriction as this substance is normally responsible for the classification and also the analytical methods are measuring the metal ion. In conclusion: for the substances containing beryllium, chromium (VI), lead and nickel, it is suggested to restrict the presence of the ion as for these groups almost all substances have a CMR classification.

3.2 Do you have comments on the function of the substances as presented in the list, or additional information on their function in the articles covered by the possible restriction?

NA (information not available)

3.3 Are there any substances on the list for which you have evidence that they do not cause dermal or inhalation exposure of consumers during normal or foreseeable use? ("Normal or foreseeable use" includes wearing the clothes or children mouthing parts of the clothing) If yes, please provide relevant evidence to support this.

NA (information not available)

3.4 Do you have any evidence of an increasing or decreasing trend of the market and use inside or outside of the EU for any of the listed substances? Please provide the evidence or a summary of it, including the name of the country.

NA (information not available)

Substances you may propose to be added to the list

3.5 Are there any CMR substances Category 1A or 1B not mentioned in the list, for which you have evidence of the presence in the articles covered by the possible restriction? If you are aware of such substances, please provide the name and identifiers of the substance(s) (such as CAS or EC number) and evidence for their presence (e.g. available test results or knowledge/description of the production process used requiring the use of that substance). If known or available, please specify the function in the article and possible concentration limits.

NA (information not available)

3.6 Do you have any evidence of an increasing or decreasing trend of the market and use inside or outside of the EU of the substances you propose to add to the list? Please provide the evidence or a summary of it, including the name of the country.

NA (information not available)

All substances

3.7 Do you have evidence of the presence of any specific CMR substances Category 1A or 1B no longer used in the EU in textile articles or clothing, but potentially present in such articles that are imported from third countries? If yes, please provide the name and identifiers of the substance(s), such as CAS or EC number) and any relevant evidence to support this.

NA (information not available)

3.8 Do you have information on the presence of the listed CMR substances and other CMR substances Category 1A and 1B in non-textile (parts of) articles such as: a) Non-fibre elements of clothing and accessories that are incorporated to the clothing article, including zips, buttons, decorative elements? b) Clothing or its parts made of a non-textile material other than leather, furs and hides (e.g. plastic or plasticised materials)?

NA (information not available)

3.9 Are there any cases where the limit set out in the list of substances could not be met (e.g. due to the production process for a specific article, specific function of the substance in that article, the absence of a suitable alternative etc.)? If yes, please provide technical and/or economical justifications. Please be specific by indicating the substance, the type of article and considerations of alternatives.

NA (information not available)

3.10 Do you have information on the availability of analytical methods and other means to verify and/or prove compliance with the possible restriction (e.g. manufacturer declaration, quality assurance systems,...)? If yes, please provide details about those methods or measures. In the case of analytical methods, please be specific by indicating the limits of detection for specific substances and whether they are recognised by international standards.

NA (information not available)

3.11 Do you have information on the possible impact (cost-effectiveness and benefits) of the possible restriction (quantitative or qualitative)? Please be specific, referring to substance/group of substances. If applicable, consider also the need of an exemption for recycling of textile articles already on the market before the enter into force of the possible restriction.

NA (information not available)

4. General comments

In our view there is a need for restricting the use of CMR substances in articles because consumer exposure is likely in the case of clothing, towels, bed linen and pillow cases. The normal restriction procedure (REACH article 68.1) is in our view most appropriate because the scientific assessments by RAC and SEAC and the included public consultations on the restriction and the final draft SEAC opinion are very valuable since these provide the level of scrutiny needed for a proper final decision in comitology on the need for an EU wide restriction, its scope and conditions. Furthermore, the decision making process is clear and transparent for all stakeholders.