

Ecodesign for textiles without harmful chemicals

Contribution to the JRC preparatory study

The Ecodesign for Sustainable Products Regulation (ESPR) requests the European Commission to develop ecodesign criteria for the product group of textiles. To underpin the Commission's work, its Joint Research Centre (JRC) performs a preparatory study on textile products. At the beginning of 2026, the JRC sought stakeholder feedback on its working document ('3rd milestone'). It launched a questionnaire requesting concise input to certain aspects of the working document and allowed input to additional aspects.

This document contains extracts of the comments by ClientEarth submitted to the consultation, complemented by a background section providing some context. The comments focus exclusively on the role of chemical substances in the ecodesign of textiles.

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Background

The Ecodesign for Sustainable Products Regulation (ESPR) is a major deliverable of the European Green Deal; it entered into force in July 2024. According to its Article 1(1), the ESPR pursues the objective to improve *"the environmental sustainability of products to make sustainable products the norm"*. The ESPR's Article 5 and Annex I show the variety of sustainability aspects in the scope of ecodesign requirements. Chemical substances can have an effect on all of these aspects, as Recital 31 highlights: *"The chemical composition of products largely determines their functionalities and impacts, as well as the possibility for their reuse or for recovery once they become waste."*

Ecodesign requirements for textile products should therefore, at the minimum, create full transparency of substances of concern potentially causing an impact along the product's lifecycle (**information requirements**) and furthermore restrict those substances the presence of which is not compatible with the sustainability objective of the Regulation (**performance requirements**).

This will contribute to the EU's vision for the transition of the textile sector, outlined by the European Commission in the 2022 Strategy for Sustainable and Circular Textiles: *"By 2030 textile products placed on the EU market are long-lived and recyclable, to a great extent made of recycled fibres, free of hazardous substances and produced in respect of social rights and the environment"* (...).

Information requirements. The ESPR in Recital 31 refers to the Chemicals Strategy for Sustainability Towards a Toxic-Free Environment, which *"calls for the presence of substances of concern in products to be minimised, and the availability of information on chemical content"*. Since *"information on the presence of substances of concern in products is a key element to identify and promote products that are sustainable"* (Recital 31), Article 7(2)(a) ESPR introduces *"as a minimum"* information *"requirements related to substances of concern"* that the Commission must take into account when considering information requirements. As a general principle, Article 7(5) ESPR states that *"the information requirements shall make it possible to track the substances of concern, throughout the life cycle of the products concerned"*.

Regarding Substances of Concern, or SoC, specifically, Article 2(27) ESPR defines four categories, three of which include chemicals with intrinsic properties harmful to health or the environment. Under Article 2(27)(a) ESPR, the first category of SoC refers to substances, which are identified as Substances of Very High Concern (SVHC) under the REACH Regulation. Article 33(1) REACH provides for the supply chain communication of SVHCs where these chemicals are present in articles in a concentration above 0,1 % weight by weight. Consumers have a right to request that same information under Article 33(2) REACH. The second SoC category, according to Article 2(27)(b) ESPR, refers to substances that have received a harmonised classification under the CLP Regulation in one of a number of hazard classes or hazard categories. Category (c) SoCs refer to substances regulated under the Regulation on persistent organic pollutants (POP). The fourth category covers substances yet to be identified under Article 5(14) ESPR that *"negatively affect the reuse and recycling of materials"*.

Performance requirements. Complementing Union chemicals legislation, the ESPR *"provides for the restriction of substances present in products or used in their manufacturing processes that negatively affect product sustainability"* (Recital 26). This extends, for example, to cases where *"a substance complicates the reuse or recycling of a product or negatively affects the properties of the recycled material"* (Recital 27). However, the ESPR also recognizes that *"chemical safety is an integral element of product sustainability"* (Recital 26). Consequently, the legal text in Article 6(3) obliges the Commission to consider *"significant risk"*.

Comments on information requirements

Substances of concern that are REACH SVHCs

As regards SoCs type (a)¹ and the interplay between ESPR and REACH, implementation of the Ecodesign rules may provide simplification for duty holders if it can make individual consumer requests under REACH obsolete. To this end, creating full convergence between the REACH and ESPR information requirements on SVHCs is paramount. The following aspects must be considered.

The JRC working document notes (line 6582) that the list of SVHCs summarised in Table 101 of that document has been built using the current SVHC list and the AFIRM Restricted Substance List. By that JRC appears to indicate that a fraction of SVHCs under REACH, i.e. only those considered relevant for textiles, shall trigger ESPR information requirements. However, if the regulator defines a limited list of SVHCs this may risk that uncommon and emerging SVHC uses in textiles are overlooked, i.e. would escape reporting requirements under ESPR. The information requirement under REACH Article 33, by contrast, applies to all SVHCs: Following the polluter pays principle, REACH assigns the responsibility of determining whether a SVHC is relevant for a product to the duty holder placing this product on the market. This approach is thus not limited by the regulators imperfect ability to identify all relevant SVHCs. Should the REACH and ESPR information requirements for the same product be triggered by different SVHC lists, this would create complexities and related extra burden on duty holders. As a conclusion, the information requirement concerning SoC type (a) under ESPR should comprise all SVHCs in full alignment with the approach established under REACH.

The working document further notes (line 6581) that the list of SVHCs summarised in Table 101 may not remain complete as the SVHC list is regularly updated. Indeed, the information requirement regarding SVHCs must be dynamic in that it is to be coupled with updates of the REACH Candidate List. It means that also after placing on the market of a textile product, the duty holder must monitor the product's legal status as substances contained in it may be identified as SVHC and trigger legal reporting requirements. This is the way in which REACH Article 33(2) is implemented, which entitles consumers to request information about SVHCs present in a product. Under REACH, following the consumer request, the supplier is obliged to provide the SVHC information that is accurate at the time of the request – e.g. years after the product was purchased – as opposed to the time of placing on the market. Consequently, to ensure consistency, the addition of a new SVHC to the Candidate List must create an information requirement under the ESPR that is triggered should this SVHC actually be present in the product. This requirement must be applicable immediately from the date the substance is added to the list. Granting a courtesy transitional period of no longer than 45 days – in line with the timeframe under REACH Article 33(2) to provide a response – could be considered.

Substances with harmonised classification and labelling

As regards SoCs type (b)² subject to harmonised classification and labelling (CLH), applying the rules discussed above concerning SoC type (a) by analogy would be the approach that is most coherent with Union legislation and thereby avoids divergence and ensuing complexities for duty holders, but also contributes most to the sustainability objectives of the ESPR.

¹ The JRC did not request specific feedback on this SoC category.

² The JRC did not request specific feedback on this SoC category.

Table 102 of the working document lists “*some chemical substances relevant to textiles identified to meet the definition*” of Article 2(27)(b) ESPR. However, attempts by the regulator to identify CLH substances relevant for textiles may risk that uncommon and emerging SVHC uses in textiles are overlooked, i.e. would escape reporting requirements under ESPR. In addition, given the large number of chemicals falling under type (b), there is also an increased risk that industry will avoid CLH substances classified as relevant by the regulator and simply replace them with other type (b) substances whose relevance to textiles is not known to the regulator, thereby undermining the objectives of the ESPR. Consequently, the information requirement must apply to all entries of Annex VI CLP for the hazard classes provided for in Article 2(27)(b). Duty holders placing a product on the market at least should be capable to determine all CLH substances present above the respective thresholds.

One should however also take note that many duty holders affected by the requirement may not yet be capable of identifying these substances – despite the existence of fundamental EU law principles that only products that are safe may be placed in the market (General Product Safety Regulation) and that it is for manufacturers to ensure that they use such substances that do not adversely affect human health or the environment (REACH). To address these challenges, it could be considered to phase-in the information requirement, e.g. starting with the obligation to report CLH substances considered relevant by the regulator, while only after some time the obligation would be extended to all substances listed in Annex VI CLP for the hazard classes provided for in Article 2(27)(b). The delegated act should define milestones for the time in-between, and the Commission should support the transition efforts by industry and the mandate of Article 22 ESPR.

Whenever new substances are added to Annex VI CLP for the respective hazard classes, these must automatically be added to the reporting requirement. Duty holders under the ESPR would benefit from the transitional period defined in CLP for the application of the new harmonised classifications (usually 18 months).

Substances that negatively affect reuse and recycling

JRC request: Do you agree that substances which are known to have a negative effect on reuse and recycling due to existing regulatory limitations associated to their chemical safety (e.g. under REACH or POPs Regulation), should be identified as SoCs type (d)? (Refer to lines 6815 – 6822).

As regards SoCs type (d), the working document finds that the presence of regulated substances as legacy chemicals in recycled materials (e.g. plastics), and products made from these, is subject to existing limitations defined in chemicals legislation (i.e. REACH, POPs Regulation, etc.) and thereby their uptake in new products to be placed on the market should be prevented or at the very least limited. ClientEarth strongly supports this conclusion as a minimum requirement. On the one hand, regulatory limitations apply when a product is placed on the market. On the other, once the product reaches the end of life, additional regulatory limitations may apply. Should End of Life actors such as professional repairers, refurbishers, remanufacturers and recyclers lack information about the presence of substances subject to such additional limitations, the criteria of Article 5(14) ESPR apply:

- the reuse, or recycling process would become more complicated, costly, environmentally impactful, or energy- or resource-demanding, and
- the usefulness or the value of the recycled material would be significantly negatively impacted.

Indeed, to enable circular economy business models, ESPR must ensure that End of Life (EoL) actors have all the information they need to determine the compliance of the product and material at the time it

arrives at their facilities. As Recital 31 puts it: “*The chemical composition of products largely determines their functionalities and impacts, as well as the possibility for their reuse or for recovery once they become waste.*” Against this backdrop, Article 7(5) ESPR states that the information requirements shall make it possible to track SoCs throughout the life cycle of the product. Accordingly, not only existing regulatory limitations but all regulatory limitations that enter into force throughout the product’s life cycle must trigger an information requirement.

For the company placing the product on the market to be able to comply with such a dynamic reporting requirement it would be necessary to create a full inventory of the chemicals present in the product and monitor their legal status. To meet existing REACH obligations, companies already need to monitor the presence of SVHCs, i.e. SoC type (a), throughout the life cycle. Industry could therefore expand existing management systems and approaches to SoCs type (d). This could help keeping compliance costs manageable, and so could the provision of support, offered to companies and especially SMEs under the ESPR capacity building mandate of Article 22, to reinforce respective structures.

Without the dynamic information requirement, the responsibility to identify SoC in waste streams would shift from the manufacturers to the EoL actors. In such scenario, the latter would depend on extensive chemical analysis, as no data sources from the supply chains are available to them. It is not unlikely that such an ex-post testing approach would create much more costs, compared to the costs of implementing the dynamic reporting requirement. It is moreover doubtful that such ex post approach is economically feasible after all. Not least, under EU law the polluter pays principle applies, i.e. it should be on those upstream actors responsible for the presence of a SoC in a product to at least make this fact known to the EoL actors. As a conclusion it appears that the dynamic information requirement, implemented by those placing products on the market that contain harmful chemicals, is the option that is both more cost effective and more proportionate

Substances regulated under the POP Regulation

As regards SoCs type (c),³ the same challenges and incentives of value chain actors apply as have been outlined above for the group of SoC type (d) subject to regulatory limitations. Accordingly, not only existing regulatory limitations under POPs but all regulatory limitations that enter into force throughout the product’s life cycle must trigger an information requirement.

Basis for the calculation of concentrations to assess thresholds

JRC request: “With reference to lines 6847 – 6871, out of the two options proposed as the basis for calculating the substance concentrations against which to compare the thresholds to trigger information requirements on SoC, which is your preferred option?”

Option 1. - Calculation (w/w) made based on the weight of the final garment (lines 6850 – 6854).

Option 2. - Calculation based on two separate groups of materials (i) the textile fibres component of the apparel textile product (aggregated weight of textile materials) and including soft non-fibre components such as leather, and (ii) separate calculation for individual hard components, in particular buttons, sequins, zippers, etc. which would be assessed based on their individual respective weights (lines 6855 – 6863).”

³ The JRC did not request specific feedback on this SoC category.

ClientEarth agrees that to reduce complexity, value chain actors would benefit if the same rationale to identify the point of reference for calculating the threshold was to be applied across all SoC types.

However, a restriction relevant under SoC types (c) and (d) may already define a specific basis for the calculation, which should consequently also apply for the purpose of the ESPR information requirements.

Furthermore, as far as SVHCs falling into SoC type (a) are concerned, existing legal requirements under REACH must be considered to ensure regulatory consistency.

Under Article 33(2) REACH, on request by a consumer any supplier of an article containing a SVHC in a concentration above 0,1 % weight by weight (w/w) shall provide the consumer with sufficient information, i.e. at least the name of that substance. The 0.1 % threshold refers to an article. By article, Art.3(3) REACH understands “*an object which during production is given a special shape, surface or design which determines its function to a greater degree than does its chemical composition*”. In 2015, the Court of Justice of the EU ruled that this classification applies irrespective of whether such an object is isolated or part of a complex product (C-106/14 - FCD and FMB). Thus, articles remain articles even if they are assembled to a more complex object, a concept described as O5A rule (‘once an article always an article’).

This rule also applies to the product group of textiles. As the working document notes for the case of elastane (line 6683), when the elastane polymer is spun into a fibre, this fibre is no longer considered a substance under REACH, but rather an article. Where a garment is made of different fibres (e.g. colours, other effects), each fibre constitutes an article in the legal sense and remains an article for the purpose of the consumer request. Accordingly, following a REACH consumer request targeting a garment, in its response the duty holder has to apply the 0.1 threshold to each different fibre, in addition to the buttons, sequins, zippers and other trims etc.

Measured by this legal standard, none of the options suggested by the working document respects the REACH once an article always an article rule. Following one of such options would thus constitute a violation of the Commission’s obligation under Article 5(10) ESPR to “*ensure consistency with other Union law*”. Furthermore, creating full convergence between the REACH and ESPR information requirements on SVHCs is paramount to ensure legal clarity and to provide simplification for duty holders who will benefit only if ESPR implementation (via Digital Product Passport, DPP) makes individual consumer requests concerning information on SVHCs in textile products under REACH obsolete.

Entry into application of information requirements for SoCs (a), (c), (d)

JRC request: “Lines 7064 – 7066 propose that SoCs (a), (c) and (d) in the product are subject to information requirements 18 months after the future Delegated Act on textile apparel is published in the Official Journal of the European Union (OJEU), as per the ordinary statutory minimum transition period set out in Article 4(4) ESPR.”

As regards SoCs type (a), under Article 33(2) REACH suppliers placing on the market a product which contains SVHCs must inform the consumer – upon request – of the presence of SVHCs within 45 days. Suppliers under REACH are usually manufacturers or distributors under ESPR. Therefore, it is fair to assume there is an increased readiness level of ESPR duty holders to comply with the information requirements on SVHCs, i.e. SoCs type (a). It is therefore not proportionate to fully exploit the default transitional period of 18 months. Rather, the readiness level provides grounds for a duly justified derogation within the meaning of Article 4(4) ESPR to shorten the transitional period when it comes to SVHCs, e.g. to 6 months.

Exemptions

JRC Request: “Lines 7001 – 7005 propose that only chemical substances remaining in the final product and intentionally added are subject to mandatory tracking, i.e. to information requirements. This entails exempting from information requirements e.g. those chemical substances that are not intentionally added to the final products and that are not present in the final product but that are otherwise related to the life cycle of the products (e.g. process chemicals).”

The working document finds (line 7234), on the one hand, that the use of chemicals is the second main contributor to the environmental impacts in the manufacturing stage. Chemical use is moreover found to be the third main contributor to negative impact at raw material production stage (7234). The proposed exemption therefore contradicts the JRC’s own assessment. On the other hand, JRC explains (line 7017) the exemption with doubts if information requirements on chemical uses may provide meaningful insights into the product’s environmental impacts, which justify the costs. The arguments brought against chemical use reporting seem flawed:

- (1) Cost and practicability: The working document argues (line 7014) that tracking of substances not present in the final product may be impractical and costly. What is meant by that is not explained, neither are any cost estimates provided. Usually, the cost argument is used in connection with chemical testing. A reporting requirement of chemicals used during the production steps however would not depend on testing. To meet this obligation, duty holders in EU facilities could merely refer to the information available in the Safety Data Sheet (SDS) or the chemicals inventory obligatory for textile manufacturing sites under the Industrial Emissions Directive (p. 390). SDSs and chemical inventories are moreover emerging tools widely used in facilities outside of the EU.
- (2) Other legislation as safety net: The working document states (line 7019) that other regulatory frameworks than ESPR exist which cover the use of chemicals, in particular the Industrial Emissions Directive (IED). However, most production steps in the supply chains do not take place within the EU, i.e. geographies where IED does not apply. Neither does the IED apply to imported goods. Consequently, not tackling process chemicals with ESPR would put EU companies at a disadvantage compared to their non-EU competitors.
- (3) Poor data availability. The working document several times refers to industry’s lack of willingness to disclose information, including on the specific chemicals used at the raw material stage (line 6462) or present in the final article (line 6545). The working document even goes as far as claiming that, “often, manufacturers cannot know at which stage and what chemicals substances were used” during production (line 6921). However, the actual problem is that industry, by not having established proper chemicals management structures along the supply chains, refuses to take responsibility, and it has to be assumed they also hold back information that could have been instrumental for the preparatory study. By refusing responsibility, industry potentially violates fundamental EU law principles that only products that are safe may be placed in the market (General Product Safety Regulation) and that it is for manufacturers to ensure that they use such substances that do not adversely affect human health or the environment (REACH). But instead of insisting on industry accountability, JRC suggests the industry’s deliberate decision to not cooperate should be rewarded with an exemption.

As a conclusion, the estimated environmental impact of chemical uses is quite significant and must be considered in light of the ESPR aim to reduce the overall environmental footprint of products over their life cycle pursuant to Article 1(1). Tackling chemical uses thus has to be a priority area. The working

document does not at all substantiate how and to what extent cost and practicability considerations would argue against chemical use reporting. The reference to the IED as existing legal framework capable of addressing the environmental impact is flawed, as most of this impact takes place outside of the IED's geographical reach. Most importantly, if industry lacks incentives to generate and provide data on chemical uses, the ESPR must be utilized in a way capable of filling these data gaps, i.e. information requirements should be imposed.

The information gathered with this requirement would facilitate industry's SoC management, by strengthening control over (potential) presence in the product of SoC and better allowing targeted chemical analysis. The information requirement would however not be targeted to SoC exclusively but apply to SoC and all other substances used during the different manufacturing steps. It should be considered which value chain actors should have access to this information. For example, the data should be available to authorities to inform targeted policy-making. As regards EoL actors, access could be limited to uses of chemicals which are more likely to result in contamination. Public data access would increase visibility and awareness of harmful chemical uses and could thereby boost innovation towards safer alternatives.

Delayed entry into application for hazards not covered under GHS

JRC request: "Lines 7081 – 7095 propose a long (8 year) delay in the entry into application for the information requirement on substances identified as SoC(b) exclusively due to being classified under hazard classes recognised under the CLP Regulation but not currently under GHS. Do you agree with this proposal?"

Commission Regulation (EU) 2023/707 introduced to CLP the classification criteria for EDCs, PBT/vPvB and PMT/vPvM.⁴ The regulation entered into force in April 2023; after expiry of the last transitional period in October 2026, all substances placed on the EU market which meet the new hazard criteria must be classified and labelled accordingly. For mixtures, the last transition period ends in April 2028. Consequently, once the ESPR delegated act becomes enforceable, these CLP provisions will already be implemented for quite some time.

The criteria apply to substances and mixtures manufactured in the EU or imported into the EU alike. Thus, also at international level chemical producers are preparing to comply with the new hazard classes. Considering in addition the 'Brussels effect', global awareness of the new hazard classes is rising.

Furthermore, for the SoC type (b) category, only substances are relevant for which two conditions are met: the criteria for EDCs, PBT/vPvB or PMT/vPvM apply and this has been confirmed through harmonized classification. Yet given lack of data (e.g. missing REACH information requirements tailored for EDC properties) combined with limited availability of public resources the numbers of CLH cases are not expected to peak anytime soon.

Against this backdrop, suggesting a transitional period of 8 years – without even hinting as to how this number came about – is totally out of proportion. It fails to acknowledge that there are strong incentives for non-EU actors to comply with information requirements on these (few) CLH substances, given the enormous size and thus attraction of the EU textile import market. At the same time, ambitious information requirements could boost global demand for EU chemical products. Neither is it the responsibility of the EU policy-maker to create overly generous conditions so that even the least

⁴ EDCs: Endocrine Disrupting Chemicals, PBT/vPvB: Persistent, Bioaccumulative, and Toxic / very Persistent and very Bioaccumulative, PMT/vPvM: Persistent, Mobile, and Toxic / very Persistent and very Mobile.

ambitious company can comply. Rather, along the lines of recital 24 stating that ESPR is also about “*removal of the worst performing products from the market*”, it is likely that information requirements will induce consolidations in the supply chains.

We therefore conclude that a transition period granting one year on top of the transition period foreseen for hazards already covered by GHS would suffice.

Comments on performance requirements

The JRC requested feedback to the conclusions in lines 7351 – 7354 of the working document that there is not sufficient scientific evidence to enable proposing the setting of performance requirements for specific chemical substances identified in the inventory associated to apparel textile products.

The working document fails to act on the legal requirement to reduce significant risks

Sentence one of Article 6(3) ESPR states that “[p]erformance requirements based on the product parameter referred to in Annex I, point (f), shall not restrict, for reasons relating primarily to chemical safety, the presence of substances in products”. The following second sentence, however, provides the legal requirement that “the setting of performance requirements shall also, where appropriate, reduce significant risks to human health or the environment”. While the working document cites this provision (lines 6237, 6243) it does not provide any concrete advice or suggestions how to implement it.

As far as the first sentence is limiting the scope of possible restrictions, this is based on the assumption that “*Union law on chemicals already provides for the restriction of substances or mixtures related to safety or risk, where needed*” (Recital 26). The REACH Regulation is mentioned in this regard. While REACH restrictions (Annex XVII) provide a safety net intended to allow market entry only for products that meet a minimum safety level, i.e., avoiding “*unacceptable risk*” (Article 68 REACH), the ESPR aims to “*make sustainability the norm*.” This distinction should be considered when interpreting the second sentence of Article 6(3), as the sustainability ambition of the ESPR raises the bar when determining what constitutes “*significant*” risk. Ultimately, Article 6(3) therefore limits the discretion of the Commission to NOT regulate chemical risk when adopting delegated acts.

To facilitate the implementation of this provision, the JRC report should at the minimum:

- Complete the chemical inventory, which for example appears to lack findings published in [Mapping the chemical complexity of plastics | Nature](#) of more than 16.000 known plastic chemicals, more than 4,200 of which chemicals of concern, which are persistent, bioaccumulative, mobile or toxic.
- Develop transparent ‘significant risk’ criteria, taking into account the rationale provided above.
- Apply in a transparent way the criteria to the chemicals contained in the inventory

The working document fails to consider the need for restrictions based on circularity concerns

The working document acknowledges that harmful chemicals present in textile material used as feedstock for recycling will likely contaminate the recyclate and products derived from that (lines 6765

and following). For example, the JRC paper defining the method for SoC (p. 118) identifies plasticisers (mostly phthalates) employed to improve the flexibility of plastics as potential source of contaminations. Table 104 (line 6811) shows that for several phthalates REACH restrictions apply. Hence, the presence of these restricted substances would impede the recycling process within the meaning of Article 5(14). However, these chemicals may still be found in old textiles and other phthalate plasticisers used in textile manufacturing (e.g. DEHTP) are not restricted.

Consequently, for the End of Life actors such as recyclers the challenge arises to identify and separate phthalate-contaminated feedstock subject and not subject to regulatory limitations. To do this would likely require chemical testing. It is not clear whether this can be done in a cost-effective measure, or if all phthalate contaminated material would become waste. As a solution, to facilitate circular economy business models, a performance requirement restricting the use of – in this this example – all phthalates must be considered. Such a restriction would improve a whole range of product aspects (including points c), d), f) g), j), k), l), m) of Article 5, thereby aligning well with the objective and intervention logic of the ESPR. It would apply the same rationale underpinning the restriction of halogenated flame in plastics of electronic displays under Commission Regulation (EU) 2019/2021.

We urge the JRC to assess the need of performance requirements based on circularity concerns. Such assessment must include, for example, phthalates but also extend to all other chemicals groups to which similar considerations and challenges apply.

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