

Netherlands - Update of “Warenwet”

Amendment of Dutch Regulations for Food Contact Materials and Articles August 22

On April 26th, 2022, the Dutch FCM regulation
Commodities Act Regulation on Packaging and
Consumer Articles (“Warenwetregeling verpakkingen

en gebruiksartikelen”) has been updated by the
Ministry of Health, Welfare and Sport. The
amendment contains several important changes.

NEW SUBSTANCES ON POSITIVE LIST

New substances were added to the positive list for producing FCMs and their conditions of use were defined. Materials concerned by these changes are plastics (Chapter I), paper and paperboard (Chapter II), metals (Chapter IV) and coatings (Chapter X).

WITHDRAWAL OF CERTAIN FLOURINATED COMPOUNDS

The approval of all substances containing PFASs which were assessed by EFSA (PFOA, PFOS, PFNA and PFHxS) as starting substances, contaminants or degradation products is withdrawn. A re-evaluation of the mentioned PFASs by EFSA has shown that these substances are more toxic than previously thought and their use could cause food safety problems. Therefore, these substances and their corresponding specific migration limits are removed from the positive lists.

Removed Substances (previously in Chapter II, paper and paperboard)

ammonium bis(N-ethyl-2-perfluorooctane sulfonamideethyl) phosphate, containing no more than 15%
ammonium mono (N-ethyl-2-perfluorooctane sulfonamideethyl) phosphate
copolymers of 2-(perfluorooctyl sulfonyl aminomethyl) ethyl methacrylate, 2,3-epoxypropyl
methacrylate, ethoxyethyl acrylate and methacryloyl methyl-trimethyl ammonium chloride
perfluoroalkyl(C6-C16)(C6-C18) phosphates of bis(2-hydroxyethyl) amine

Removed Substances (previously in Chapter X, coatings)

diethanolamine salts of mono- and bis(1H,1H,2H,2H-perfluoroalkyl(C8-C18) phosphates (this PFAS
can be applied in coatings on paper and paperboard)

DEFINITION OF PAPER AND PAPERBOARD

There has been some confusion about the characterization of paper and paperboard. Although, even with the existing definition, products with alternative sources of cellulose fibers (like from tomato leaves and sugar cane) fell under the term 'paper and cardboard', there appeared to be a lack of clarity about this in practice. The definition has been adapted to reflect this. The new definition covers all paper and paperboard produced from dissolved cellulose fibers in suspension.

However, it does not cover products based on intact natural materials (such as wood, cork, bamboo, palm leaves) or products that contain plant fibers but are held together by a synthetic resin (such as the so-called bamboo melamineware, which is in the scope of Commission Regulation (EU) No 10/2011. The regulation is very restrictive in permitting the use of plant material as an additive in plastics).

ALIGNMENT OF HEAVY METAL LIMITS WITH COMMISSION REGULATION (EU) NO 10/2011

Some nickel-containing substances that are allowed to be used in plastics (Chapter I) will follow SML of nickel specified in Annex II of Commission Regulation (EU) No 10/2011.

Some zinc-containing substances that are allowed to be used in plastics (Chapter I) will follow SML of zinc specified in Annex II of Commission Regulation (EU) No 10/2011.

ADJUSTMENT OF HEAVY METAL LIMITS

| Element | SML and basis | applicable to |
|-----------|---|---|
| Lead | 0.01 mg/kg | - Metals (Chapter IV), but does not apply to tin-plated steel used as food packaging as it is technically difficult to get reliable results in the release of lead from tinplate using food simulant |
| Aluminium | 1 mg/kg (Annex II of EU No 10/2011) | - Paper and paperboard (Chapter II) - Rubber products (Chapter III) - Textile products (Chapter VII) - Coatings (Chapter X) - Colourants and pigments (Chapter XI) |
| Aluminium | 5 mg/kg (Council of Europe Resolution CM/Res(2013)9) | - Metals (Chapter IV) |
| Nickel | 0.02 mg/kg (Annex II of EU No 10/2011) | - Glass and glass ceramics (Chapter V) - Colourants and pigments (Chapter XI) |
| Nickel | 0.14 mg/kg (Council of Europe Resolution CM/Res(2013)9) | - Metals (Chapter IV) |
| Zinc | 5 mg/kg (Annex II of EU No 10/2011 and Council of Europe Resolution CM/Res(2013)9) | - Paper and paperboard (Chapter II) - Rubber products (Chapter III) - Metals (Chapter IV) - Textile products (Chapter VII) - Coatings (Chapter X) - Colourants and pigments (Chapter XI) - Epoxy polymers (Chapter XII) |

TRANSITIONAL PERIOD

Food contact materials and articles that comply with the Commodities Act Regulation on Packaging and Consumer Articles as it stands on June 30th, 2022 and that were put on the market before January 1st, 2023 may be traded until stocks are exhausted.

However, due to the safety concerns, the transitional period does not apply to the changes related to PFASs.

That means material and articles containing the specified PFASs should be removed from the market with immediate effect.

EXPECTED IMPACT OF THE AMENDMENT:

With the aforementioned changes, there is not much impact apart from the below mentioned points.

- The specific migration limits of heavy metals are tightened, customers are advised to check their existing test reports if the requirement can still be fulfilled
- The removed PFAS substances from the positive list are commonly used in the paper food contact materials. We highly recommend customers to check the formulation of the paper materials to ensure these PFAS substances are not used, as transitional period is NOT applicable to these substances.

TUV Rheinland Group can support customers finding the right approach and testing for the compliance requirements. Please feel free to contact your local TUV Rheinland for further information.

Reference link:

<https://zoek.officielebekendmakingen.nl/stcrt-2022-11934.html>

Further information on current legal changes can also be found on our homepage at www.tuv.com or <https://www.tuv.com/regulations-and-standards/en/>

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