

ECHA PROPOSES RESTRICTION ON PFASs IN FIREFIGHTING FOAMS¹

Summary

Firefighting foams containing PFASs have caused many cases of environmental contamination in the EU, both in soil and drinking water. All PFASs, or their breakdown products, are very persistent and some are known to harm human health or the environment. The combination of persistence and the potential to cause harm means that it is important to minimise further releases of these substances to reduce the likelihood of, potentially irreversible, harm in the future.

ECHA has assessed the strengths and weaknesses of five different options to control the risks of PFASs in firefighting foams. The proposed option would ban the placing on the market, use and formulation² of all PFASs in firefighting foams after use or sector-specific transition periods. These transition periods would give time for industry to replace PFAS-containing foams without compromising fire safety. During the transition periods, those still using PFAS-based foams will have to ensure that releases to the environment are minimised. Expired foams and any waste foams would also need to be appropriately disposed.

The consultation on this proposed restriction will start on 23/03/2022 and end on 23/09/2022.

When responding to the consultation, stakeholders should ensure that they are referring to the most recent version of the Annex XV report and any annexes (i.e. those published alongside the consultation).

Respondents are also encouraged to take into account when certain aspects of the evaluation of the proposal are planned to be discussed in the committee's plenary meetings (see table below) and time their submissions accordingly (multiple submissions are possible throughout the consultation).

In addition, initial reactions to the proposed restriction may be submitted by the early comments deadline of 24/05/2022. In early comments respondents may outline when they plan to submit subsequent comments and on which topics. This information can assist the Rapporteurs of the committees to plan their evaluation.

	Committee	
Plenary meeting (timing)	Risk Assessment Committee (RAC)	Socio-Economic Assessment Committee (SEAC)
1 (2.5 months after start of consultation)	Verify the proposed scope. Conclude on hazard and hold preliminary discussion on exposure/risk.	Verify the proposed scope. Conclude on costs of the proposed restriction and hold preliminary discussions on its benefits.
2 (5.5 months)	Conclude on exposure/risk and	Conclude on benefits and hold

¹ The information note has been prepared based on the Annex XV report prepared by ECHA.

² The information note was updated in July 2022 to clarify that whilst the proposed restriction would affect exports from the EU the restriction would apply to (i.e., ban) the formulation of the PFAS-containing mixtures for firefighting (based on risks at this lifecycle stage) not to their export *per se*.

CONSULTATION

after start of the consultation)	hold preliminary discussion derogations.	preliminary discussions on proportionality and derogations.
3 (8.5 months after start of the consultation)	Finalise the derogations. Finalise the opinion plus justification text and adopt the final opinion.	Conclude on proportionality and derogations. Finalise the opinion plus justification text and agree the draft opinion.
4	Not relevant.	Conclude on issues raised during the SEAC draft opinion consultation. Adopt the final opinion.

Information on the hazards of the substance(s) and the costs of the proposal are likely to make the most impact if submitted by month two and exposure/risk, benefits and derogations by month four of the consultation.

It is possible to submit more than one consultation response during the six month period so please take this into account when deciding when to submit information.

How to submit a comment in the consultation on the proposed restriction

Firstly, please read the consultation guidance that describes the relevant information that should be submitted. It is available here:

https://echa.europa.eu/documents/10162/13641/public_consultation_guidance_en.pdf/7c4705d5-ad01-43ed-a611-06f1426a595c.

When you are ready to make your comments, click on the appropriate link on the ECHA website. Please be aware that it is not possible to save your submission and come back to it, so you should already have your comments prepared in an attachment or saved in some other format in advance.

The web form contains five main parts:

- Introduction: containing some general information on the restriction and a link to this note and the PC guidance.
- Section 1: Personal information
- Section 2: Organisational information
- Section 3: Non-confidential comments on the proposal - both general comments and information on specific issues (see below). Your responses can be entered directly into the form or through section 4 as an attachment. However, please do not submit the same comments via both means. General comments can be on any aspect of the Annex XV restriction proposal, including on issues related to socio-economic analysis.
- Section 4: Non-confidential attachments can be added here.
- Section 5: Confidential attachments can be added here. Confidential information will only be available to the ECHA Secretariat, the Committees and Member State Competent Authorities. However, if ECHA receives an Access to Documents request, we may come back to you for justifications why the information is

confidential. You can also add this information already in the relevant part of the webform.

Once you have finished your submission press the submit button and your comments will be submitted. You will receive a submission number via e-mail and you should refer to this in any communication with ECHA on this issue.

It is not possible for you to retrieve your submission so you may want to take a screen shot or printed copy for your future reference.

Specific information requests

In addition to an opportunity to provide general comments, as outlined above, the consultation includes several specific questions to gather information that is considered to be particularly relevant to the evaluation of the proposal, as follows:

1. Information on the status of PFAS firefighting foam substitution (that is not already described in the Annex XV report, annex or appendices), specifically in relation to the following applications:
 - a. Portable fire extinguishers for class B fires;
 - b. Tanks and flammable liquids in the transportation sector (rail and road);
 - c. High-temperature climate conditions within the EU (e.g. climate-change induced heatwaves);
 - d. Availability of sufficient quantities of alternatives for the replacement of stocks.
2. Are the proposed transitional periods (see Table 3 and Section 2.8.2 of the Annex XV report) appropriate to implement alternative (PFAS-free) firefighting foams (incl. any time required for additional performance testing and/or adaptation of the fire extinguishing systems/process)? If not, please:
 - a. describe the socioeconomic impacts that would occur after the end of the proposed transitional period(s). Please refer to Annex XVI of REACH for details of elements to consider in an impact assessment;
 - b. describe the socioeconomic impacts that would occur with (i) longer and (ii) shorter transitional periods;
 - c. Provide a justification for the representativeness of the information provided for a particular sector or use in the EU/EEA.
3. Paragraph 3b and 3e of the proposed restriction (see section 2.2.5) details a transitional period of 10 years after entry into force for establishments covered by Directive 2012/18/EU (Seveso III Directive; both upper and lower tiers). Are the definitions in this Directive appropriate to identify the industrial installations that require 10 years to transition to alternative (PFAS-free) firefighting foams? If not, how else could such a distinction be practically made at a European level?
4. Is the order of magnitude of the cost estimates (see Tables 4 and 5) appropriate? If not, please:
 - a. justify different assumptions (see Tables 12 and 13) and cost estimations per cost category and/or industry sector/use and

- b. Provide a justification for the representativeness of the information provided for a particular sector or use in the EU/EEA.
5. Any robust, representative, data on the costs to implement operational conditions and risk management measures to minimise emissions to the environment and direct and indirect exposures to humans of PFASs in firefighting foams during the transitional periods (i.e. the requirements of paragraph 4b of the proposed restriction)?

In the absence of more specific information, the Dossier Submitter estimated these costs based on the disposal costs of PFAS-containing foams used for training and incidents (€1 000 per tonne, -50% as a lower bound and +100% as an upper bound, see also Wood et al. (2020), Table 8.14 on p. 163).

If you have more appropriate information, please

- a. justify different assumptions and cost estimations per cost category and/or industry sector/use and
 - b. Provide a justification for the representativeness of the information provided for a particular sector or use in the EU/EEA.
6. Any specific information on the costs of treatment (e.g. reverse osmosis) that is effective at removing PFASs from drinking water?
7. The Dossier Submitter estimated that there are 15 million hand-held fire extinguishers containing PFASs in the EU (see 2.3.2). Are you aware of any specific information at EU or national level that would allow a refinement of this estimate? If so, please provide a justification for the representativeness of the information provided.
8. Any robust, representative, data that challenges the assumption that fire-water containing PFASs is currently sent to either on-site or urban waste water treatment plants? If so, how do they relate to Appendix 2 and 3?
9. Any robust, representative, data regarding the cost and available capacity of incinerating the retired foam stock and the PFAS-containing fire-water collected in accordance with paragraph 4d and 5 of the restriction proposal?
10. The conditions of the proposed restriction include a clause on the labelling of firefighting foam concentrates containing non-PFAS organofluorine substances (column 2, paragraph 7 of the proposed restriction) to enable enforcement without requiring targeted analysis of all potential PFASs. Would this requirement facilitate enforcement? Could it be improved?

The final opinions of both Committees are scheduled to be available by 17 March 2023. ECHA will send the combined opinion of the Committees to the European Commission, which will take the decision whether to include the proposed restriction in Annex XVII of the REACH Regulation.

The Dossier Submitter and the Rapporteurs will respond to the issues raised in the consultation. A response to comments (RCOM) will be published with the launch of the consultation on the SEAC draft opinion in month nine of the process.