

## ECHA PROPOSES RESTRICTION ON PFASs IN FIREFIGHTING FOAMS<sup>1</sup>

### 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 restriction options to control the risks of PFASs in firefighting foams. The proposed restriction would ban the placing on the market, use and formulation 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.

ECHA's Committee for Socio-Economic Analysis (SEAC) has now agreed its draft opinion on the proposed restriction, which is subject to a 60-day consultation of interested parties. Comments received will be taken into account before SEAC adopts its final opinion.

### SEAC draft opinion consultation

The consultation on the SEAC draft opinion for this proposed restriction will start on 15 March 2023 and end on 15 May 2023.

Interested parties can comment on the draft SEAC opinion using the relevant web form on the ECHA website.

When submitting comments, please keep in mind that:

- It is usually necessary to provide **supporting evidence** (i.e., in the form of references, data or other information) alongside comments. Without supporting evidence, it is usually not possible for SEAC to evaluate the credibility of the comment.
- Where respondents **request a derogation** from the proposed restriction the following supporting evidence should be provided:
  - A detailed description of the use of the substance, including the quantities used/released, technical function, sector of use, article category, etc.;
  - Information on **alternatives**, including and assessment of their availability, technical feasibility and economic feasibility; if alternatives are available a detailed description of a substitution timeline;
  - The **socio-economic impacts** to society in case a derogation is not included

---

<sup>1</sup> The information note has been prepared based on the SEAC draft opinion prepared by ECHA.

## INFORMATION NOTE ON SEAC DRAFT OPINION ON PFASs IN FIREFIGHTING FOAMS

in the restriction. This includes, for example<sup>2</sup>:

- Impacts to industry (e.g., manufactures, importers, downstream users), including related to alternatives providers;
  - Impacts on consumers (e.g., prices or product performance);
  - Impacts on society, (e.g., employment);
  - Wider implications on trade, competition and economic development, in particular for SMEs);
  - Benefits for human health or the environment (e.g., worker health)
- Information arriving after the closing date or via channels other than the web form will **not be taken into account**.
  - It is your responsibility to remove **confidential information** from the comments and attachments submitted with non-confidential status.
  - As far as possible, justifications based on non-confidential information are preferred to those based on confidential information. Should the submission of confidential information be considered to be fundamental to describe socio-economic impacts (i.e. in the case that a use is restricted), then a non-confidential form of the confidential information (i.e. generic use descriptions, a tonnage or concentration range or aggregated data from multiple sources to prevent back-calculation) should be submitted in addition to the confidential information. This is to allow for the most transparent discussion of the justification for a derogation in the SEAC opinion.

Further information can be found in the consultation guidance available at: [https://echa.europa.eu/documents/10162/13641/restriction\\_consultation\\_guidance\\_en.pdf](https://echa.europa.eu/documents/10162/13641/restriction_consultation_guidance_en.pdf)

When responding to the consultation, stakeholders should ensure that they are referring to the SEAC draft opinion and the most recent version of the Background Document and its annexes that are published on the ECHA website alongside the consultation.

### **How to submit a comment in the consultation on a SEAC draft opinion**

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 consultation guidance.
- Section 1: personal information.
- Section 2: organisational information.
- Section 3: non-confidential comments on the SEAC draft opinion - both general comments and information on specific issues (see below). Your responses can be

---

<sup>2</sup> Further relevant socio-economic impacts are described in Annex XVI of REACH

INFORMATION NOTE ON SEAC DRAFT OPINION ON  
PFASs IN FIREFIGHTING FOAMS

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 SEAC draft opinion.

- 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 the general comments, 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. SEAC would welcome further information on the availability, technical feasibility and implementability of alternative PFAS-free firefighting foams in the following sectors/activities:
  - a. offshore exploration and exploitation,
  - b. transport of flammable liquids in pipelines,
  - c. (bulk) transport of flammable liquids on rail and road,
  - d. Temporary storage directly related to transportation of dangerous substances,
  - e. "Neighbouring establishments" as defined by Seveso Directive (an establishment that is located in such proximity to another establishment so as to increase the risk or consequences of a major accident)

Based on the information received in the consultation on the Annex XV report, SEAC assessed whether these sectors/activities in some cases may be affected by similar substitution concerns as those justifying a longer transitional period for installations covered by the Seveso Directive. However, so far, SEAC could not identify evidence that sufficiently justifies the recommendation of a 10-year transitional period. In order to be considered, submitted information should contain all of the following:

- Detailed description of the activity, use, location and sector that is considered deserving of a longer transitional period and, where possible, representative examples and case descriptions,
- Well-justified information on the fire risk, the current performance difference between PFAS-containing and PFAS-free foams in practical

INFORMATION NOTE ON SEAC DRAFT OPINION ON  
PFASs IN FIREFIGHTING FOAMS

application (taking into account recent test results) and the reasons for any identified performance difference (e.g. lacking functionality, etc.),

- Volume of PFAS-containing foams used in the relevant context per year,
  - Description of the steps that need to be taken in a successful transition to an alternative with durations for each step,
  - List of advantages and disadvantages of a 5-year transitional period,
  - Difference in the cost of the transition (comparing the scenarios of the 5-year transitional period and 10-year transitional period).
2. SEAC would welcome additional corroborated and preferable non-confidential estimates of the additional number of Portable Fire Extinguishers (PFE) that needs to be manufactured to allow the substitution of existing PFAS-containing PFE already present in EU facilities within 5 years after entry into force of the restriction (which is estimated to be in 2024). Submitted information should focus on the following:
- Information on the amount of existing PFE that have separate containment for the PFAS-containing foam concentrate and would allow for isolation of the corresponding container/bag, thus avoiding the need for complete replacement,
  - Information on the amount of non-foam PFE that can be supplied and would be allowed for use instead of existing PFAS-containing PFE,
  - Information on the amount of PFAS-free PFE (foam and non-foam) that can be imported to the EU to facilitate a timely phase out of PFAS-containing PFE within 5 years,
  - A detailed justification of why manufacturers cannot supply enough quantity of PFAS-free PFE for replacement of existing PFAS-containing ones within 5 years (should that be the opinion of the stakeholder providing the information),
  - Information on the manufacturing capacity of PFAS-free PFE (incl. potential overcapacity or standstill times, stocks, supply chain issues, etc.),
  - Information on the possibility to revise (national) building codes currently favouring the installation of PFAS-containing PFE even in locations where no class-B fire is expected.

SEAC notes that many factors (including the above-mentioned, but potentially more) need to be considered to come to a reliable conclusion. Without knowledge on certain open issues, there may not be a basis for justifying a longer transitional period.

3. SEAC would welcome additional information on the earliest time point at which the placing on the EU market of new PFAS-containing PFE can be abandoned. In order to justify their answer, comment submitters are expected to provide detailed information on the current number and percentage of PFE sales still relying on PFAS-containing foam agents and the steps required to cease the sale of new PFAS-containing PFE (with durations for each step). SEAC notes that based on currently available information many suppliers of PFE have considerably increased their offer

INFORMATION NOTE ON SEAC DRAFT OPINION ON  
PFASs IN FIREFIGHTING FOAMS

of PFAS-free PFE both in terms of volume and diversity of PFE. It is also noted that customers are being increasingly informed about anticipated regulatory measures to avoid that uninformed buyers are supplied with products that will require premature replacement in the foreseeable future. SEAC considers that well-justified arguments will be needed to justify the continued placing on the market of new PFAS-containing PFE is required given that PFAS-free alternatives appear to generally exist.

4. SEAC would welcome further input on the limit values for PFASs in firefighting foams. To be considered, a proposal of a higher limit value must include well-justified information on
  - Advantages and disadvantages related to the higher limit value,
  - Costs savings achievable by the proposed increase of the limit value as compared to the limit value of 1 mg/l,

SEAC would also welcome input regarding the type of guidance required on sampling and other practicalities to better enable users to adhere to limit values.

5. SEAC would welcome further well-justified and preferably non-confidential information on the ability of foam users in the defence sector to attain exemptions in line with Art. 2(3) REACH if needed after a 5-year transitional period. This includes representative information on the timeline and costs of relevant exemption procedures as well as further detail on the advantages and disadvantages compared to an extended transitional period.
6. SEAC would welcome further information on the availability, technical feasibility and implementability of alternative PFAS-free firefighting foams in the marine sector and more specifically the transport of flammable liquids in bulk via ships. Based on the information received in the consultation on the Annex XV report, SEAC assessed whether a transitional period longer than 3 years is justified. However, so far, SEAC could not identify evidence that sufficiently supports the recommendation of a longer transitional period. In order to be considered, submitted information should contain all of the following:
  - Detailed description of the use that is considered deserving of a longer transitional period and, where possible, representative examples and case descriptions,
  - Well-justified information on the fire risk, the current performance difference between PFAS-containing and PFAS-free foams in practical application (taking into account recent test results) and the reasons for any identified performance difference (e.g. lacking functionality, etc.),
  - Volume of PFAS-containing foams used in the relevant context per year,
  - Description of the steps that need to be taken in a successful transition to an alternative with durations for each step,
  - The concrete length of a transitional period that is considered required and appropriate,
  - List of advantages and disadvantages of a 3-year transitional period,
  - Difference in the cost of the transition (comparing the scenarios of the 3-

INFORMATION NOTE ON SEAC DRAFT OPINION ON  
PFASs IN FIREFIGHTING FOAMS

year transitional period and a specified longer transitional period).

7. For municipal fire brigades, in the consultation on the Annex XV Dossier, some stakeholders claimed that an 18-month transitional period is too short, in particular considering the need for training and gaining practical experience during emergencies. Transitional periods of 8 or 10 years were requested but no substantiation was provided. Therefore, an extended transitional period does not currently seem sufficiently justified, also considering that municipal fire services will benefit from a longer transitional period when they have to fight a fire at Seveso establishments. If stakeholders still consider it relevant, SEAC would require concrete information to assess the option of setting a longer transitional period of a specific length, with thorough justification of the requested length where non-Seveso sites are concerned. In order to be considered, submitted information should contain all of the following:
  - Detailed description of the use that is considered deserving of a longer transitional period and, where possible, representative examples and case descriptions,
  - Well-justified information on the fire risk, the current performance difference between PFAS-containing and PFAS-free foams in practical application (taking into account recent test results) and the reasons for any identified performance difference (e.g. lacking functionality, etc.),
  - Volume of PFAS-containing foams used in the relevant context per year,
  - Description of the steps that need to be taken in a successful transition to an alternative with durations for each step,
  - The concrete length of a transitional period that is considered required and appropriate,
  - List of advantages and disadvantages of a specified longer transitional period,
  - Difference in the cost of the transition (comparing the scenarios of the 18-month transitional period and a specified longer transitional period).
8. SEAC would welcome further well-justified information regarding a potential reporting requirement on the sales of PFAS-containing firefighting foams, by foam formulators during the transitional periods. In particular, SEAC welcomes information regarding the number of formulators that would be affected and the cost and practicability of such a reporting scheme.

## Next steps

After SEAC adopts its opinion in June 2023, the opinions of the Risk Assessment Committee (RAC) and SEAC will be combined and sent to the European Commission without delay. The Commission will take the decision whether to include the proposed restriction in Annex XVII of the REACH Regulation after discussions with the Member States in the REACH Committee.