



# AFFF Update . . .

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## **Proposed REACH Restriction on PFAS in Firefighting Foam Now Likely Vehicle for AFFF Regulation in European Union**

In January 2022 the European Chemicals Agency (ECHA) published a proposal for a separate REACH restriction on PFAS in firefighting foams. Although there are two other proposed REACH restrictions on PFAS substances in different stages of development and review, it now appears that the proposed ECHA REACH restriction on PFAS in firefighting foam will be the regulation moving forward in the European Union that will cover most uses of fluorinated class B foams.

### **Background**

PFAS (perfluoroalkyl and polyfluoroalkyl substances) refers to a class of chemicals that contain fluorine atoms bonded to carbon atoms. Current PFAS definitions include over 4,000 different fluorinated compounds ranging from gases to liquids to solids with different environmental and toxicological profiles. Many PFAS substances are persistent in the environment, and it is this persistence that is the basis for current regulatory proposals. Historically, persistence alone has not been a sufficient justification for restricting a substance under REACH.

The C6 fluorosurfactants used in modern fluorinated class B foams such as AFFF, AR-AFFF, FFFP, AR-FFFP, FP and AR-FP are classified as PFAS substances. Although they are generally considered to be low in toxicity and not bioaccumulative, like other PFAS they are persistent in the environment. PFHxA (perfluorohexanoic acid), a potential breakdown product of C6 fluorosurfactants, is also classified as a PFAS substance. In this newsletter firefighting foams containing C6 fluorosurfactants will be referred to as “PFAS foams.”

There are currently three proposed REACH restrictions on PFAS substances in various stages of development and this has caused confusion within the industry as to which restrictions encompass firefighting foams.

In February 2023 a broad REACH restriction was proposed covering all PFAS substances (Universal-PFAS, U-PFAS). Shortly after release of this proposal ECHA confirmed that the U-PFAS restriction does not cover firefighting foams.

A REACH restriction on PFHxA was proposed in December 2019 that included prohibitions on fluorinated class B foams. In January 2022 ECHA proposed a separate REACH restriction on PFAS in firefighting foam. In June 2023 a draft European Commission regulation on PFHxA was released that contained limited prohibitions on foam covering testing and training, municipal fire services, and civil aviation. The transition periods for these uses in the draft PFHxA regulation are almost identical to the proposed transition periods in the ECHA PFAS in firefighting foam restriction outlined below. If both regulations are finalized as currently proposed, they should be easily harmonized.

### **ECHA Proposal for a REACH Restriction on PFAS in Firefighting Foam**

The public consultation on the proposed REACH restriction on PFAS in firefighting foam began in March 2022 with the six-month comment period ending in September 2022. A draft opinion of the ECHA Committee for Risk Assessment (RAC) and ECHA Committee for Socio-Economic Analysis (SEAC) was released in March 2023 with the public consultation on the RAC and SEAC opinions ending in May 2023. Final opinions of RAC and SEAC were released in September 2023.

Below is a summary of the current proposed restrictions on PFAS foams as outlined in the SEAC final opinion. It is possible that the proposed restrictions could be modified prior to adoption based on positions of EU member states. Entry into force would occur when the restriction is officially adopted.

### **Proposed Restrictions on PFAS Foam Use**

PFAS firefighting foams cannot be used:

- a. 18 months after entry into force for training and testing (except testing of firefighting systems for their function)
- b. 18 months after entry into force for municipal fire services (except if also in charge of industrial fires for establishments covered by Directive 2012/18/EU (Seveso III) and for use in these establishments only)
- c. 5 years after entry into force for civilian ships including tankers, ferries, tugboats and other commercial vessels
- d. 5 years after entry into force for civilian aviation (including in civilian airports) and defence
- e. 10 years after entry into force for establishments covered by the Directive 2012/18/EU (Seveso III) (upper and lower tiers) if they are not already covered under civilian aviation, and a review of the substitution status shall be implemented before the end of the transitional period to address the uncertainty about the successful implementation of alternatives
- f. 5 years after entry into force for all other uses not listed above
- g. 31 December 2030 for portable foam extinguishers as defined by EN3-7, EN-1866 and EN-16856 placed on the market before 6 months after entry into force
- h. 10 years after entry into force for installations belonging to the offshore oil and gas industry and a review of the substitution status shall be implemented before the end of the transitional period to address the uncertainty about the successful implementation of alternatives

### **Proposed Restriction on Sale and Export of Foam Fluorosurfactants**

Fluorosurfactants for use in foam can continue to be placed on the market (sold and exported) and used in the formulation of foam concentrates for 10 years after entry into force, except as a constituent of a firefighting foam in

portable fire extinguishers which is limited to 6 months after entry into force, or as a constituent of an alcohol resistant firefighting foam in portable fire extinguishers which is limited to 18 months after entry into force

### **Proposed Restriction on Sale and Export of Foam Concentrates**

PFAS foam concentrates can continue to be placed on the market (sold and exported) and formulated for 10 years after entry into force, except as a constituent of a firefighting foam in portable fire extinguishers which is limited to 6 months after entry into force, or as a constituent of an alcohol resistant firefighting foam in portable fire extinguishers which is limited to 18 months after entry into force

### **Proposed Labeling Requirements**

6 months after entry into force, packaging of PFAS foam concentrates placed on the market or used (excluding in portable fire extinguishers) and containers of firewater runoffs and PFAS waste must be labeled as follows “WARNING: Contains per- and polyfluoroalkyl substances (PFASs)”

### **Other Proposed Requirements**

6 months after entry into force users of PFAS foam concentrates (excluding in portable fire extinguishers) shall:

- ensure that they are only used for fires involving flammable liquids (class B fires)
- minimize emissions to the environment and direct and indirect exposures to humans of firefighting foams to the extent that is technically and economically feasible
- establish a site-specific ‘PFAS-containing firefighting foams management plan
- ensure that collected PFAS-containing waste be handled for adequate treatment that minimizes releases of PFAS to the environment and excludes municipal wastewater treatment
- ensure that the collected PFAS-containing waste resulting from cleaning of firefighting equipment shall be handled for adequate treatment where the concentration of total PFAS is greater than 50 mg/L for the offshore oil and gas industry and 1 mg/L in all other uses/sectors
- ensure that PFAS foam concentrates and mixtures held in stock and in need of disposal be handled for

adequate treatment that minimizes releases of PFAS to the environment and excludes municipal wastewater treatment

## **Next Steps**

Final decisions on adoption of the PFHxA and PFAS in firefighting foam restrictions by EU member states would be expected sometime in 2024. Information on the PFHxA and PFAS in firefighting foam restrictions can be found at the following links:

<https://www.echa.europa.eu/web/guest/registry-of-restriction-intentions/-/dislist/details/0b0236e18323a25d>

[https://echa.europa.eu/de/registry-of-restriction-intentions/-/dislist/details/0b0236e1856e8ce6?utm\\_source=echa-weekly&utm\\_medium=email&utm\\_campaign=weekly&utm\\_content=20201007&\\_cldee=cGhhbm5lYmF1bUB0eWNvLWJzcGQuY29t&recipient\\_id=lead-7edcfd4c0e0e71180fa005056952b31-b56d4545a5ce4da69fcc5660a9992aaf&esid=93ade6a5-7208-eb11-8123-005056b9310e](https://echa.europa.eu/de/registry-of-restriction-intentions/-/dislist/details/0b0236e1856e8ce6?utm_source=echa-weekly&utm_medium=email&utm_campaign=weekly&utm_content=20201007&_cldee=cGhhbm5lYmF1bUB0eWNvLWJzcGQuY29t&recipient_id=lead-7edcfd4c0e0e71180fa005056952b31-b56d4545a5ce4da69fcc5660a9992aaf&esid=93ade6a5-7208-eb11-8123-005056b9310e)