



September 19, 2023

To: ECHA's Risk Assessment (RAC) and Committee for Socio-Economic Analysis (SEAC)
Re: PFAS Restriction Proposal

Submitted via internet:

https://comments.echa.europa.eu/comments_cms/AnnexXVRestrictionDossier

The WCC (World Coatings Council) is a consortium of national trade associations formed to coordinate policy and conduct advocacy on behalf of the global paint and coatings industry. The WCC addresses issues related to sustainability management, lead paint, transport of dangerous goods, chemicals management, emissions, biocides, market evaluations and trends and a variety of other issues relevant to paint and coatings manufacturers. To that end, WCC has standing in several international bodies, including the International Maritime Organization, UN Economic and Social Council and UN Environment. Please consider the following comment regarding the EU proposed ban of PFAS in products.

I. Introduction

The EU proposal to restrict the manufacture, placement of products on the market, and use of PFAS has been proposed by Denmark, Germany, Netherlands, Norway, and Sweden. In accordance with European Chemical Agency protocols, their intention to submit such a proposal was formally communicated in 2021 and in March 2023 when the Annex XV report (under REACH) was published, triggering a stakeholder comment period that ends on Sept. 25, 2023.

The Annex XV report addresses the risks to the environment and human health of PFAS and provides an assessment of the effectiveness, practicability, monitorability and socio-economic impacts of two restriction options (ROs) under REACH as the most suitable risk management option (RMO) to address the identified risks. Both ROs propose a general ban of PFAS in products with variations for exemptions and phase-in periods for the ban. In RO1 (Restriction Option 1), authoring countries propose a complete ban of all PFAS in products within 18 months of adoption with no exemptions. In RO2 (Restriction Option 2), authoring countries

propose a complete ban within 18 months of adoption with time-limited exemptions of either 5 or 12 years based on availability of alternatives and critical use. RO2 also includes a few time unlimited, general exemptions, for PFASs used as active substances in Plant Protection Products (PPP), Biocidal Products (BP) and human and veterinary Medicinal Products (MP), as these are addressed under their respective regulations.

The WCC provides this comment in support of the position provided by VdL (Verband der deutschen Lack- und Druckfarbenindustrie e.V.), the national German paint and coatings association, submitted on June 21, 2023. Briefly stated, VdL makes the following points:

- The ban on PFAS substances is overly broad, including critical raw materials that have no substitutes and are not toxic or hazardous to the environment under conventional criteria.
- The ban is beyond the scope of standard procedures under Article 68 of REACH banning substances that have not been shown to have an “unacceptable risk.” Persistence is not a hazard endpoint, and persistence, absent other characteristics, does not indicate unacceptable risk.
- The ban extends to fluoropolymers that are “polymers of low concern” under REACH, including polymers used in high-performance coatings that enhance safety. One example being intumescent coatings used on industrial buildings that delay the spread of fires during an explosion or accident.
- Considering the complex uses and chemical properties of fluorinated chemistries, companies and the Commission require additional time to compile and evaluate relevant information.

VdL provides further details and relevance to the paint and coatings industry, while identifying recommendations to the Commission. WCC adopts VdL’s comment and supports its recommendations. WCC also provides the additional comment:

II. The EU proposal does not adequately distinguish types of fluorinated chemistries.

PFAS encompasses a variety of fluorinated chemistries with very distinct physical and chemical properties, used across a broad range of products. PFAS or fluorinated chemistries are generally known to be persistent, due to carbon-fluorine bonds, but have varying properties for toxicity and bioaccumulation. Generally, persistence alone is not an indicator of risk or potential for harm. Persistence is not a hazard endpoint. Scientists consider persistence as one factor while also considering toxicity and potential to bioaccumulate when assessing potential risk of a chemical.

A broad ban of PFAS fails to consider critical raw materials with low potential for environmental harm. As noted in the position paper submitted by VdL, the national German paint and coatings association, fluoropolymers are considered “polymers of low concern” (PLC) under REACH since

they are chemically stable, non-toxic, non-bioavailable, non-water soluble and non-mobile. Fluoropolymers, considered PFAS in the EU, are used in a variety of industries including medical applications, high-purity pharmaceutical raw materials and food contact materials. ECHA's proposal underestimates the importance of fluoropolymers in these and other high-performance products while over-estimating their potential harm to the environment.

The proposal also underestimates the time and expense to identify substitutes, modify all aspects of a formulated product and bring it to market, assuming a substitute is available. Formulated products do not have "drop-in" substitutes. All aspects of the formula have been developed and tested for optimum performance based on customer and technical performance standards, often while minimizing environmental impacts. Cost of substitutes is one consideration, but it is not the primary consideration. The feasibility of substitution changes rapidly as performance requirements also change.

III. Fluoropolymers are non-toxic chemicals that are critical raw materials.

Fluorinated chemistries are sometimes necessary to meet high performance standards, often reducing raw materials and energy usage due to durability of the fluorinated product. Further, paint manufacturers may formulate products to meet standardized performance requirements, such as AAMA 2605-20 (2020) *Voluntary Specification, Performance Requirements and Test Procedures for Superior Performing Organic Coatings on Aluminum Extrusions and Panels (with Coil Coating Appendix)* or SSPC Paint 47, *Highly Weatherable Fluoropolymer Topcoat, Performance-Based*. Another application includes intumescent coatings on industrial buildings used to delay or stop the spread of industrial fires.

WCC encourages the Commission to consider the necessity of fluoropolymers to meet specifications. Fluoropolymer binders are essential for providing the kind of durability, safety, and sustainability that permit long lifespan protective coatings for critical infrastructure such as bridges, buildings, and other structures; and are specified to meet several architectural industry performance standards, such as AAMA 2605, SSPC Paint 47, etc. Less effective technologies will lead to greater waste and replacement costs and higher risk of structural deterioration and aesthetics reduction.

IV. OECD publication regarding PFAS in paints and coatings notes that replacements do not perform at the same level as coatings with fluoropolymers

In January 2022, the OECD published *Per- and Polyfluoroalkyl Substances and Alternatives in Coatings, Paints and Varnishes (CPVs) (Report on the Commercial Availability and Current*

Uses).¹ The report considers uses, function and efficacy of alternatives to PFAS as used in paints and coatings, while focusing on three types of products:

- Coatings for cables and wiring;
- Coatings used on solar panels; and
- Household and architectural paints, while mostly focusing on paints for bridges.

While recognizing the limitations of the report, the report identifies general issues for further consideration. The OECD took a general market study approach that did not adequately distinguish types of products, including consumer from industrial products, and did not consider the full range of products requiring PFAS due to a technical necessity to meet a performance standard, a regulatory requirement or otherwise.

For most uses, OECD concludes that performance characteristics of coatings with fluoropolymers make them more desirable products than their non-performing alternatives.² Use of coatings with fluoropolymers is limited by need where a buyer is willing to pay additional costs for high-performance characteristics. When considering bridge paint, the OECD concludes that,

[I]t would cost approximately 26 % more with the FP (fluoropolymer) based coating compared to polyurethane. However, after 30 years it was concluded that the total cost for the polyurethane coating would cost 16 % more than the FP-based coating, owing to the faster degradation of the non-PFAS coating and therefore a need for more frequent recoating, with associated labour and material costs.

Additional material and manufacturing costs associated with non-fluoropolymer alternates have an environmental impact from increased use of raw materials, energy consumption, waste production and disposal, etc. WCC recommends considering the overall environmental effects of removing a high-performance coating with fluoropolymers from the market prior to implementing a ban.

¹ *Alternatives in Coatings, Paints and Varnishes (CPVs) (Report on the Commercial Availability and Current Uses)* (hereinafter, "OECD Report") is available online at: <https://www.oecd.org/chemicalsafety/portal-perfluorinated-chemicals/per-and-polyfluoroalkyl-substances-alternatives-in-coatings-paints-varnishes.pdf>

² OECD Report at p. 65-66

V. Conclusion

The WCC appreciates the opportunity to submit comment regarding the report under Annex XV of REACH and the related proposal to ban PFAS. For the reasons described above, the WCC supports and adopts the policy recommendations described in the position paper submitted by VdL.

Sincerely,

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