

Proposed restriction Annex XVII entry for PFAS in firefighting foams

Brief title: Restriction on the export, placing on the market and use of PFAS in firefighting foams.

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Per- and polyfluoroalkyl substances (PFAS) CAS No. various EC No. various Defined as any substance having at least two perfluorinated carbons with the formula $C_nF_{(2n+1)}$ with ($n \geq 2$) directly attached to any chemical group, as one of the structural elements.	1. Shall not be placed on the market as substances on their own, as a constituent in other substances or in mixtures for use in firefighting foam concentrates where the concentration of total PFAS is greater than 1 mg/L¹ 10 years after entry into force. 2. Shall not be used on their own, as a constituent in other substances or in mixtures in firefighting foam concentrates where the concentration of total PFAS is greater than 1 mg/L. 3. Paragraph 3 shall apply from: a. 18 months after entry into force for training and testing (except testing of the 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 the Seveso-III Directive and for use in these establishments only); c. three years after entry into force for civil ships; d. five years after entry into force for portable fire extinguishers as defined by EN3-7; e. 10 years after entry into force for establishments covered by the Seveso-III Directive² (tier 1 and tier 2); f. five years after entry into force for all other uses not covered by paragraphs 3(a), 3(b) 3(c), 3(d) and 3(e). 4. Without prejudice to paragraph 4, six months after entry into force user of firefighting foam concentrates where the concentration of total PFAS is greater than 1 mg/L shall: a. ensure that firefighting foam concentrates are only used for fires involving flammable liquids (class B fires); b. minimise emissions to the environment and direct and indirect exposures to humans of

¹ Or 1 000 ppb, or 0.0001% (w/v)

² Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances

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	firefighting foams to the extent that is technically and economically feasible. c. establish a site-specific 'PFAS fire-fighting foams management plan' which shall include: i. a justification for the use of each firefighting foam concentrate where the concentration of total PFAS is greater than 1 mg/L (including an assessment of the technical and economic feasibility of alternatives) ii. details of the conditions of use and disposal of each PFAS containing foam used on site specifying how paragraph 5(b) is achieved (including plans for the containment, treatment and appropriate disposal of liquid and solid wastes arising in the event of foam use, routine cleaning and maintenance of equipment or in the event of accidental leakage/spillage of foam). iii. The management plan shall be reviewed at least annually and be kept available for inspection by enforcement authorities on request. d. Ensure that the collected PFAS-containing waste with a concentration of PFAS above the one mentioned in paragraph 1 shall be handled for adequate treatment. The treatment shall minimise releases of PFAS to environmental compartments as far as technically and practically possible and excluding any wastewater treatment, irrespective of any pre-treatment. For each event of foam use or accidental spillage or leakage, proof of appropriate management and disposal of the foam concentrates, water-added foams and fire run-off waters shall be documented and kept available for enforcement authorities. 5. From six month after entry into force, firefighting foam concentrates containing PFAS above the threshold indicated in paragraph 1 which are held in stock and need to be disposed of shall be handled for adequate treatment. The treatment shall minimise releases of PFAS to environmental compartments as far as technically and practically possible and excluding any wastewater treatment, irrespective of any pre-treatment. Proof of appropriate disposal shall be documented and kept available for enforcement authorities.

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	6. From six months after entry into force, packaging of firefighting foam concentrates placed on the market or used, containers of firewater runoffs or other PFAS-waste in relation with the use of firefighting foams or the cleaning of firefighting foam equipment in concentrations above the one mentioned in paragraph 1 shall be labelled indicating the presence of PFAS above this threshold with the following wording: "WARNING: Contains per and polyfluorinated substances (PFAS)". This information shall be displayed in a clear and visible manner in the official language(s) of the Member State(s) where the firefighting foam concentrate is placed on the market, unless the Member State(s) concerned provide(s) otherwise. 7. Shall not be exported 10 years after entry into force as substances on their own, as a constituent in other substances or in mixtures for use in firefighting foam concentrates where the concentration of total PFAS is greater than 1 mg/L

Explanatory notes:

- (1) "Testing of the firefighting systems for their function" means testing the fire protection system in the same way as it would operate in case of emergency. Other types of testing include but are not limited to: testing of foam agents during their development phase, testing of foam agents by users to evaluate products' suitability on specific combustibles, testing of correct proportioning of firefighting foam concentrates.
- (2) Municipal fire services (i.e. local authority fire and rescue services) are covered under the restriction entry 3 (b.), except if they are also in charge of industrial fires for establishments covered by the Seveso-III Directive and for use in these establishments only. In this case, the transitional period of paragraph 3(e) applies.
- (3) Other uses of firefighting foams include – but are not limited to -: civil aviation, defence, aerospace, offshore oil/gas/chemical facilities, onshore oil/gas/chemical manufacturing or processing facilities which are not covered by paragraph a. (Seveso establishments), power plants, glass manufacturers, waste treatment facilities, food processing industry, metal processing, etc.
- (4) The use of PFAS foam agents in portable fire extinguishers are covered by paragraph 3(d), with a proposed transitional period of five years, irrespective of the sector of use, i.e. their use would be continued to be allowed during this period even if the sector where they are used is subject to a shorter transitional period (e.g. ships).
- (5) "Civil ships" refers to marine and non-marine non-defence ships.
- (6) Foam concentrates are the foam formulations purchased by the users and which are further mixed with water at the moment of the use. Water-added foams are the foam concentrates mixed with water at the moment of the use. Fire run-off waters are the run-off waters containing the firefighting foam and all other elements mixed with them during the use of the firefighting foam during a fire incident, training or other use (e.g. flammable liquids, dirt, etc).

- (7) The labelling of the containers containing PFAS above the threshold indicated in paragraph 1 aims at facilitating the identification and handling of the PFAS-based foam concentrates, firewater run off and waste.