

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: PFAS restriction in FFFs
Date: 04 May 2022 18:36:24
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[02022022Annex XV restriction report of FFFs by ECHA_replyto ECHA.docx](#)
[REST PFAS in FFF AXVreport \(002\).docx](#)

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Dear [REDACTED], dear ECHA colleagues,

We have looked again at your reply and we still have difficulties to understand the arguments on export.

For this reason, we send you the first attached document and the reply to your comments in bubble form in the same document (first part is our original arguments and second part your reply together with our comments to your replying).

Please note that we have in addition a difficulty to understand what your proposed restriction option is.

I refer to the Summary third paragraph

"The preferred restriction option would ban the placing on the market, use and export of PFASs in firefighting foams after use/sector-specific transitional periods."

And to the conditions of the restriction which are

Per- and polyfluoroalkyl substances (PFASs) defined as: any substance that contains at least one fully fluorinated methyl (CF₃) or methylene (CF₂) carbon atom (without any H/Cl/Br/I attached to it).

1. Shall not be placed on the market or exported 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 PFASs is greater than 1 ppm^[1] 10 years after entry into force.

In the above, it seems that you propose ban PFAS on their own to be placed on the market or exported as substances on their own for use in firefighting foams but also the use on their own.

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 PFASs is greater than 1 ppm.

What is actually the thing that you propose to ban ?? (PFAS on their own etc as written on the above conditions or PFAS containing FFFs ?) There is a confusion .

The summary in page 3 relative to the preferred restriction option is in conflict with the scope as proposed in the conditions of the restriction which creates even more issues to understand banning the exports of what ?

We are open to discuss it into the future .
Kind Regards

██████ and ██████

From: ██████ <████████████████████>
Sent: Friday, April 29, 2022 6:22 PM
To: ██████ (GROW) <████████████████████> ██████ (ECHA) <████████████████████>
Cc: ██████ (ECHA) <████████████████████> ██████ (ECHA) <████████████████████>
<████████████████████> ██████ (GROW)
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<████████████████████>
Subject: RE: PFAS restriction in FFFs

Hi ██████

Sorry for not coming back to you before on this. The timing of the Easter holidays and then preparation for the RAC REST WG next week became all consuming.

Let me clarify the intention of the DS assessment of restriction options in this proposal. As with other recent ECHA restriction proposals our objective when undertaking the analysis (and when RAC and SEAC evaluate them) to give decision makers relevant information on the impacts of a diverse, but relevant, range of policy options to address the identified risk. We do not seek to constrain the options available to decision makers. Whilst there is always a preferred restriction option (indeed this was a request from the Commission in the past) it is always possible for the Commission to deviate where necessary to another restriction option or to a further option that was not assessed. The preferred option is the one which we conclude to be the least burdensome to address the identified risk. As the CSS export ban is in the public domain it seemed prudent to assess the impacts of its implementation for this restriction.

However, please note that RO2 and RO3 are identical, with the exception of the 'export' element. At the decision making stage, should the Commission and MS not be willing (or able) to implement a ban on the export of firefighting foams containing PFASs then the relative impacts of this decision (on EU actors) can be readily appreciated.

Although we write a version of the legal (i.e. REACH Annex XVII) text in restriction proposals we acknowledge that this is typically redrafted at the decision making stage and therefore we tend to treat this in a quasi-legal sense to ensure that the implications of the restriction are readily understandable to stakeholders. We know that it is not possible to restrict 'export' under REACH, but use of PFASs (i.e. formulation with) into firefighting foams can be restricted and if it is not allowed to formulate a PFAS containing firefighting foam then it cannot be exported. This is different to a restriction on the placing on the market (of a firefighting foam) where formulation for export could legally continue. It is the formulation of the foams that would need to be restricted in order to realise a ban on export.

Please note that the intention of the restriction is focussed on either the formulation or the placing on the market of the firefighting foams themselves, not the use of PFAS 'ingredients' that could be used in firefighting foams as well as different types of products. Therefore, any unintended consequences for other products should not occur as a results of this restriction. However, based on feedback from

stakeholders and also from RAC we acknowledge that the proposed restriction text can be misinterpreted in this regard to include a restriction on PFAS 'substances as such'. We will revise the wording (and supporting text) in subsequent cycles of the opinion to clarify this.

I hope that this helps. Please let me know if you'd like to discuss further.

Yours,

[Redacted]

PS. Please note that we also assessed a restriction option on 'export' in the recent PAHs in clay targets restriction.

[Redacted]

Senior Scientific Officer / Restriction Process Coordinator
Risk Management I / D3
European Chemicals Agency
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Tel. [Redacted]

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From: [Redacted] <[Redacted]>
Sent: 29 April 2022 15:35
To: [Redacted] <[Redacted]> [Redacted]
<[Redacted]>
Cc: [Redacted] <[Redacted]> [Redacted]
<[Redacted]> [Redacted] <[Redacted]>
[Redacted] <[Redacted]> [Redacted]
<[Redacted]> [Redacted] <[Redacted]>
Subject: RE: PFAS restriction in FFFs

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Dear colleagues ,

I come back to the comments sent by DG GROW before Easter.

I have just went through the 1st Draft RAC and it is still all around banning the exports (RO3).

We have not any answer yet to our comments after Easter, as you promised , but DG GROW has already expressed many comments on the RO3.

We also sent a comment about the formation of a RAC and SEAC opinion on the 3rd option that it would create issues later to the Commission , pre-emptying our internal discussions on the exports and we have asked to be considered more explaining the reasons.

I am sorry that I come back but I see that there is a deadline on the RAC members to comment till the 5-6 May on the 1st DO which contains the 3rd RO (which includes ban the exports) something that obliged us to come back to the issue.

I am looking forward to your replying to our comments.
Kind Regards

[REDACTED]

I

From: [REDACTED] <[REDACTED]>
Sent: Wednesday, April 13, 2022 10:10 AM
To: [REDACTED] (GROW) <[REDACTED]> [REDACTED]
(ECHA) <[REDACTED]>
Cc: [REDACTED] (ECHA) <[REDACTED]> [REDACTED] (ECHA)
<[REDACTED]> [REDACTED] (GROW)
<[REDACTED]> [REDACTED] (GROW)
<[REDACTED]> [REDACTED] (ENV)
<[REDACTED]>
Subject: RE: PFAS restriction in FFFs

Dear [REDACTED] and [REDACTED]

Thank you very much for your feedback.

We fully understand your concerns and can explain in more detail our intentions regarding the wording in the proposal after Easter.

We will get back to you with a more in-depth explanation of our approach in the proposal next week.

Kind regards,

[REDACTED]

[REDACTED]

Risk Management Unit II (D4)
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From: [REDACTED] <[REDACTED]>
Sent: 11 April 2022 18:45
To: [REDACTED] <[REDACTED]>
Cc: [REDACTED] <[REDACTED]> [REDACTED]
<[REDACTED]> [REDACTED]
<[REDACTED]> [REDACTED]
<[REDACTED]> [REDACTED]
<[REDACTED]> [REDACTED]
Subject: PFAS restriction in FFFs

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Dear [REDACTED]

As I promised , in a previous email , we are sending DG GROW comments (attached file) related to the ECHA's PFAS restriction proposal used in FFFs.

Kind Regards

[REDACTED] [REDACTED] and [REDACTED] [REDACTED]

^[1] Corresponding to 1 000 ppb, or 0.0001% (w/v).