



**Chemours™**

**APM FAQ:**

**How to engage in the Public  
Consultation process under REACH**

*April 2023*

# I. Regulatory Process and Open Consultations

## 1. Why is it important to participate in ECHA's open consultations?

- Industry input and data is critical to underline the need for proposed and additional derogations and to help the Committee for Socio-Economic Analysis (SEAC) and the Committee for Risk Assessment (RAC) in formulating an accurate opinion.
- Based on the information gathered during the public consultation, the scientific committees will form their opinion on whether the proposed restriction is appropriate in reducing the risks to human health and the environment as well as on the socio-economic impacts, i.e. benefits and costs to society, associated with the proposal.
- Industry's input on data and evidence during the public consultation is crucial, as there is no other way of making an impact on the final restriction for stakeholders. The committees can only base their assessments on the data provided during the consultation and original restriction dossier, they don't have the mandate to provide further information by themselves.
- The entire value chain has leverage and valuable information to provide; this includes downstream (processors) and end users (e.g. OEMs) as well as individual companies and trade associations.

## 2. How do I participate in ECHA's open consultations?

- You can participate in ECHA's open consultations on the PFAS restriction proposal [here](#). To structure responses, ECHA published a survey with 10 concrete topics to provide answers to. Any additional information relevant to this restriction proposal can be submitted in "Section III – Non-confidential comments", Section IV, and Section V.
- In addition, ECHA published a very helpful guide on how to submit information and structure answers to its survey. You can find this guide [here](#).
- On April 5, 11:00-13:00h CET, ECHA hosted a webinar to provide additional information. A recording of the webinar can be found [here](#).
- Additional information on the PFAS restriction proposal can be found [here](#).

## 3. Who is eligible to participate in the open consultations? Are there geographical limitations?

- All stakeholders – inside and outside of the EU – are eligible to participate in the open consultations.

## 4. Should my company participate in the consultations even if the trade association representing my company is participating?

- Chemours suggests that as many organizations as possible, including individual organizations as well as trade associations, participate in ECHA's open consultations to ensure that industry concerns are heard.
- The participation in the consultations is important to help regulators understand individual substances' different socio-economic benefits as well as their respective environmental and health profiles. In addition, industry participation is crucial to provide information about

the availability of alternatives as well as data on emissions during manufacturing, use, and end-of-life.

- While trade associations often provide helpful information on a more general level, individual companies often have information and data on very specific applications.
- Therefore, we recommend to you to participate in the open consultations even if your market peers and trade associations are participating as well.

#### **5. How do I ensure alignment within the industry when participating in ECHA's open consultations?**

- We recommend to approach your respective trade associations to receive information about a broader industry coordination.
- This said, it remains important to directly submit any data / information your organization has that underlines the benefit of PFAS substances for their respective uses / applications.

#### **6. What information is most important to submit to ECHA?**

- ECHA's open consultations are structured as a survey with ten concrete topics and a field for general comments. When participating in the open consultations, it is crucial to provide answers in accordance with the structure of this survey. The survey can be found [here](#).
- ECHA published a very helpful guide on how to submit information and structure answers to its survey. You can find this guide [here](#).
- In general, information submitted to ECHA should be data based and include information on a) the availability of alternatives, b) the socio-economic impact of a potential restriction, and c) substance management throughout its lifecycle.

#### **7. Shall one submit information by application, sector or substance?**

- As the derogations are categorized by application, ideally any data or information would also follow this structure.
  - If a derogation for a certain application is not listed, the application is automatically included in the proposed restriction. Therefore, it is important to provide information to all applications that must be considered for a derogation from the restriction – this is particularly important for the various applications of fluoropolymers.
- If your company only has data on a sector or substance level, this is also helpful for regulators and will be taken into account.
- Therefore, please submit any information you can provide along the lines of the ECHA survey.

#### **8. What will happen in the regulatory process moving forward and which institutions will be involved?**

- It is important to understand that the submission of the Restriction Dossier by Denmark, Germany, The Netherlands, Norway, and Sweden was just one step in regulatory the process and is not equivalent to the final restriction.
- On March 22, ECHA's open consultations started, during which all stakeholders are invited to comment on the Restriction Dossier. These open consultations last about six months and will end September 25, 2023.

- After nine months, the Committee for Risk Assessment (RAC) will formulate its final opinion and the Committee for Socio-Economic Analysis (SEAC) will publish its draft opinion.
- After the publication of SEAC's draft opinion, stakeholders are invited to comment on this draft opinion for 60 days, before SEAC formulates its final opinion.
- Once SEAC formulated its final opinion, the regulatory process foresees the Commission to prepare its decision within three months. The EU Parliament and Member States will review and potentially discuss the Commission's decision, before the final restriction potentially enters into force.
- You can find the full overview of the ECHA restriction process [here](#).

**9. Is it safe to submit confidential information to ECHA? Specifically in light of the fact that confidential information from the Call for Evidence on the PFAS restriction proposal has been leaked to the press last year?**

- For information on confidentiality during the regulatory process and ECHA's conduct, we kindly ask you to approach ECHA directly as we cannot comment for the organization. In general, also the [European Ombudsman](#) can be called upon if an organization or individual wishes to file a complaint against an EU body or institution.
- Yet, what is clear is that data and information on the essentiality of fluoropolymers and other PFAS substances in your manufacturing processes and products is crucial. Only based on such data and information, the ECHA committees SEAC and RAC can take key industry considerations into account when formulating their opinions.
- In short, without data and information on fluoropolymers and other PFAS substances you use, they are likely to be banned.

## II. Regulation – Scope and Structure

**10. Do you think the EU PFAS restriction proposal will trigger similar regulatory action in the United States and elsewhere?**

- EU regulations can indeed influence policies in the Americas and other markets – this PFAS restriction proposal under REACH is no exception.
- However, the current restriction proposal is not the final regulation. Much more, ECHA invites stakeholders to comment on the proposal in open consultations (please also see answer to question 8).
- Hence, to ensure that any future regulation is targeted, minimizes risks and environmental impacts while also allowing for innovation, growth, and a sustainable transition of the economy, we appeal to the entire value chain to participate in ECHA's open consultations.
- It is important to provide information and data to the ECHA committees SEAC and RAC to enable them to accurately assess and account for a potential regulation's societal, economic, and environmental consequences and impact.
- This is the best way to avoid unintended consequences resulting from a potential PFAS restriction both in the EU and beyond.

#### **11. How will the regulation affect the broader value chain?**

- As proposed by Denmark, Germany, the Netherlands, Norway, and Sweden, which submitted the Restriction Dossier, the regulation will affect the manufacturing, use, and placing on the market of all PFAS.
- This means that no products or applications containing PFAS will be eligible for import into the EU or for selling these products within the EU market. This also includes the sale of spare parts as well as the resale of products or applications.

#### **12. On which basis did authorities decide upon derogations proposed in the Restriction Dossier on PFAS?**

- In general, time-bound derogations significantly affect opportunities for future development and growth in key industries. Such time-bound derogations undermine planning certainty, investments, and research and development in industry and technology sectors crucial for the EU Green Deal. As such, we recommend to advocate for a time-unlimited derogation for fluoropolymers.
- Currently, however, authorities argue that PFAS substances shall be banned in sectors where they believe there is sufficient evidence for technically and economically feasible alternatives.
- Along those lines, five-year derogations are proposed for sectors in which authorities see sufficiently strong evidence suggesting that there are no immediate alternatives but that alternatives are in sight and preparation.
- 12-year derogations are proposed for sectors in which sufficiently strong evidence suggests that there are neither immediate alternatives nor are alternatives in sight and market access is not achievable within five years.

#### **13. Are derogations specified for segments or individual applications?**

- In general, derogations are granted for specific applications only.
- That said, the Restriction Dossier foresees a few time-unlimited, more general derogations for PFAS used as active substances in Plant Protection Products (PPP), Biocidal Products (BP) and human and veterinary Medicinal Products (MP).

#### **14. Denmark, Germany, the Netherlands, Norway, and Sweden, which are leading this regulatory effort, justify the approach to group all PFAS by focusing on persistence as common property. Are there examples of previous restrictions under REACH that were based on persistence only?**

- To our knowledge, there previously has been no restriction under REACH that was based merely on persistence as a key rationale.
- This said, Member States, or ECHA, at the request of the European Commission, can start the restriction procedure when they are concerned that a certain substance poses an unacceptable risk to human health or the environment.

**15. If a certain application of fluoropolymers is not mentioned among the proposed derogations in the Restriction Dossier, does that mean that this application will fall under the restriction and will be banned after the regulation's entry into force?**

- That is correct. An application that is not listed as a derogation falls under the scope of the restriction and will be banned 18 months after entry into force.
- However, it is important to note that the Restriction Dossier submitted by Denmark, Germany, The Netherlands, Norway, and Sweden was just one step in the regulatory process and is not equivalent to the final restriction.
- To receive more information on the restriction proposal's socio-economic as well as environmental and health impacts, ECHA invites stakeholders to comment on the PFAS restriction proposal in open consultations (please also see answer to question 8).
- Hence, to ensure that a potential future regulation is targeted, minimizes risks and environmental impacts while also allowing for innovation, growth, and a sustainable transition of the economy, we appeal to the entire value chain to participate in ECHA's open consultations.
- It is important to provide information and data to the ECHA committees SEAC and RAC to enable them to accurately assess and account for a potential regulation's societal, economic, and environmental consequences and impact.

**16. Will the restriction be applied by sector or by application?**

- Apart from the pharmaceutical, biocide and pesticide sector, most of the derogations are given by application.
- This highlights a potential contradiction within the Restriction Dossier as the value chain of a certain application may be affected by a ban even if the end product is not.
- It is important to highlight this contradiction within the open consultation so that regulators can adapt the restriction accordingly.
- It is important to understand that the Restriction Dossier is not the final regulation, and the regulatory process foresees additional opportunities for stakeholders to engage. We encourage everyone to do so (please also see answers to question 8).

### **III. Industry Actions and Mobilization**

**17. Is there a broader industry collaboration among trade associations and / or manufacturers of fluoropolymers to address the PFAS restriction proposal?**

- On a European level, Plastic's Europe's [Fluoropolymers Product Group](#) as well as Cefic's sector group [FPP4EU](#) are leading and coordinating broad industry action.
- In addition, also industry specific and national trade associations are coordinating efforts and support engagement in the regulatory process, to highlight the restriction's proposal impact on their respective industries.
- We encourage you to reach out to your trade associations for assistance in the regulatory process as well as for information on industry coordination.

## **18. How do you plan to mobilize the broader value chain to engage in the regulatory process?**

- Since the beginning of the regulatory process in 2020, we see continuously growing awareness for the restriction proposal as well as increasing active engagement in the regulatory process.
- We reach out to, engage, and educate various trade associations on EU and national level to enable specific industry sectors to participate in the consultations.
- On a European level, Plastics Europe's [Fluoropolymers Product Group](#) as well as Cefic's sector group [FPP4EU](#) are leading and coordinating broad industry action.
- In addition, we are working with industry specific and national trade associations that are coordinating efforts and support engagement in the regulatory process to highlight the restriction proposal's impact on their respective industries.
- As Chemours, we are also an active member in EPEE, EFCTC, EHPA, and PU Europe, with dedicated teams to address the PFAS restriction proposal and emphasize industry concerns.
- Moving forward, Chemours remains committed to constructively support the regulatory process. We share the EU's objective of sustainable transformation and supports a coherent regulatory framework that includes science-based risk assessment and critical consideration of whether substances create a significant socioeconomic value. We will continue to engage in an open dialogue with our customers, authorities and regulators to help further develop meaningful regulation that allows for continued innovation power and a sustainable transformation in the EU.

## **19. Are investments in fluorinated chemicals declining in the EU and elsewhere?**

- When looking at the EU, the US, and governments around the world, it is important to emphasize the continuously increasing commitment towards the sustainable transition of the economy, and to further strengthen this commitment in the future.
- For example, with the European Green Deal, the Sustainable and Smart Mobility Strategy, Fit-for-55, the European Industrial Strategy, the European Chips Act and other key European policy objectives and strategies the EU has set out ambitious goals for this transition.
- Chemours shares the EU's stated objective of transforming the European economy in a sustainable way. In fact, our chemistries play a key role in achieving the EU's ambitious targets – both directly as well as indirectly.
- Especially fluoropolymers are crucial in technologies. From electrolyzers for decarbonization to advanced electronics, to human health advancements and smart buildings – many industries rely on the essential fluorine chemistries that we manufacture safely and responsibly.
- Particularly due to their unique combination of properties, fluoropolymers make products more durable, efficient, and safer, ultimately increasing their life-span and promoting sustainability. Therefore, we remain committed to fluorine chemistry and continue to invest in this technology, as it enables world-changing technologies that help solve some of the world's most challenging problems.



## 20. Are there common guidelines that define responsible manufacturing for PFAS?

- In the EU, manufacturing emissions are regulated by the Industrial Emissions Directive (IED).
- The IED foresees that permits take the whole environmental performance of a plant into account, including emission values that are based on Best Available Techniques (BATs).
- In addition, Chemours has taken industry-leading steps to reduce emissions and discharges to the environment, and enhance sustainability at our sites – including the EU.
  - We have committed to reducing air and water process emissions of fluorinated organic chemicals by 99% or greater by 2030, and share our progress against this goal annually in our sustainability report.
  - In the Netherlands, at our Dordrecht site, we completed two significant energy reduction projects related to collecting steam condensate on-site and reusing it for steam production, reducing site CO<sub>2</sub> emissions by approximately 300 MT per year.
  - In Belgium, at our Mechelen site, we continued work that started in 2020 and carried into 2021 related to our pursuit of renewable energy solutions. We've been successful in converting the site's electricity supply to 100% wind-powered electricity and carbon-neutral natural gas. This results in an estimated annual reduction of 270 MT of carbon dioxide equivalent (CO<sub>2</sub>e) emissions.

## IV. Substances

### 21. Does Chemours have scientific data or studies to share that proof that fluoropolymers are safe for their intended use?

- Fluoropolymers are not bio-available, toxic or even mobile. They do not dissolve in or contaminate water or generate microplastics, and they cannot enter or accumulate in a person's bloodstream. As such, fluoropolymers meet the OECD's criteria for "polymers of low concern" as they do not present significant toxicity concerns and do not degrade into other PFAS (please also see comments from the [American Chemistry Council](#) and the letter from [Plastics Europe's Fluoropolymer Product Group](#) to the Competent Authorities of Denmark, Germany, Netherlands, Norway, Sweden).
- For detailed scientific information on the safety and environmental profile of fluoropolymers, we suggest to approach Cefic's FFP4EU or Plastic Europe's Fluoropolymer Group, which are best positioned to direct you to data sources relevant for your respective products and applications. Further information can also be found in [Henry et al. \(2018\)](#) and [Korzeniowski et al. \(2023\)](#), as well as in [European Commission, Directorate-General for Environment, Bougas, K., Corden, C., Crookes, M., et al. \(2020\)](#).
- Moreover, we want to stress that Chemours is committed to responsible manufacturing and has taken industry-leading steps to reduce emissions and discharges to the environment by implementing state-of-the-art technologies and enhancing sustainability at our sites.
- We have committed to reducing air and water process emissions of fluorinated organic chemicals by 99% or greater by 2030 compared to our 2018 baseline, and share our progress against this goal annually in our sustainability report.
  - Our efforts include recovery projects for reuse in the chemical manufacturing process, using thermal destruction techniques that destroy over 99.99% of PFAS air emissions, and installing adsorption technology for dilute aqueous and vapor streams.



**22. Does Chemours plan to switch to non-fluorinated surfactants for the production of fluoropolymers? If not, will Chemours' fluoropolymers will still be available after the restriction enters into force?**

- It has always been our standard business practice to continuously assess and reevaluate our product portfolio, taking into consideration various economic and regulatory aspects and strategic fit.
  - However, Chemours is committed to fluorine chemistry and its power to enable world-changing technologies that help solve some of the world's most challenging problems. Because – simply put – non-fluorinated surfactants or surfactant solutions generated in situ are not the answer. Responsible manufacturing is. Responsible manufacturing is the solution: Chemours is committed to reducing air and water process emissions of fluorinated organic chemicals by 99% or greater by 2030 compared to our 2018 baseline. Most are recycled to be reused in the chemical manufacturing process, while thermal destruction techniques are used to destroy over 99.99% of remaining PFAS air emissions.
  - Environmental impact and worker safety: non-fluorinated polymerization aids generate significantly more by-products than fluorinated ones, which pose a higher environmental and safety risk than fully fluorinated polymerization aids. This requires significant monitoring and control systems to contain the high number of by-products. It is therefore important to run a full analytical analysis on all possible byproducts, requiring both targeted and non-targeted analysis, when using non-fluorinated polymerization aids.
  - Efficiency for critical applications: fluorinated polymerization aids provide unequalled certainty for high-performance and critical applications through greater efficiency and safety, where by-products can be more easily controlled and contained. Non-fluorinated polymerization aids may have a role to play in lower-performance applications, such as consumer appliances, and where there is less concern for the unique by-products that may be generated by non-fluorinated polymerization aids.
- As such, general statements that non-fluorinated polymerization aids are alternatives available for all products is an oversimplification.
- Against this background, Chemours is committed to constructively support the regulatory process moving forward. We will continue to engage in an open dialogue with our customers, authorities and regulators to help further develop meaningful regulation that also takes the respective values and benefits of different polymerization aids into account.

**23. Which technologies exist to recycle fluoropolymers and to manage them throughout their lifecycle?**

- In general, fluoropolymers are safe for their intended use and do not degrade into other PFAS in the environment.
- Chemours has state-of-the-art emission control technologies in place to capture, recover and recycle fluoropolymers during manufacturing and processing.
- We have committed to reducing air and water process emissions of fluorinated organic chemicals by 99% or greater by 2030 compared to our 2018 baseline, and share our progress against this goal annually in our [sustainability report](#).

- Our efforts include recovery projects for reuse in the chemical manufacturing process, using thermal destruction techniques that destroy over 99.99% of PFAS air emissions, and installing adsorption technology for dilute aqueous and vapor streams.
- End-of-life recovery and recycling of fluoropolymers in products takes place wherever possible.
- In addition, existing waste management directives such as the End of Life Vehicles Directive, Battery Directive, Waste Electrical and Electronic Equipment Directive, Landfill Directive, Urban Waste Water Treatment Directive, Waste Incineration Directive, and others ensure responsible disposal of fluoropolymer-containing products and applications.

**24. Why are fluoropolymers within the scope of this regulation? Are they dangerous to use or manufacture?**

- Chemours maintains that the expanded definition of PFAS being applied in the proposal is too broad to enable effective, science-based assessment and regulation of particular chemical compounds, such as fluoropolymers.
  - This assessment is also shared by OECD: “It should be noted that this general PFAS definition is based only on chemical structure, and the decision to broaden this definition compared to Buck et al. (2011) is not connected to decisions on how PFASs should be grouped and managed in regulatory and voluntary actions.” (OECD (2021): [Reconciling Terminology of the Universe of Per- and Polyfluoroalkyl Substances: Recommendations and Practical Guidance](#)).
- Fluoropolymers are critical for nearly every major sector of the economy, offer unique combinations of properties, and are safe for their intended uses.
- Fluoropolymers are specialty performance materials that have a unique combination of properties that makes them fire resistant, weather resistant, temperature resistant, chemical resistant, non-wetting and non-stick, and they have high-performance dielectric properties.
- Chemours maintains that our approach to responsible manufacturing proves fluoropolymers can be made and used safely, and handled responsibly across the lifecycle.

**25. Can you provide sample letters to send opposing the proposed regulation?**

- The best way to help shape the PFAS restriction now is to take part in the open ECHA’s open consultations are structured as a survey with ten concrete topics and a field for general comments. When participating in the open consultations, it is crucial to provide answers in accordance with the structure of this survey. The survey can be found [here](#).