

PFAS Updates

April 8, 2026

Ales Bartl, Ph.D.

Partner

Brussels, Belgium

+32 (0) 2 645 5085

bartl@khlaw.com



Ales Bartl

- ◆ Ales Bartl has a broad experience in European Union (EU) product regulatory law, including Registration, Evaluation, Authorisation, and Restriction of Chemicals (REACH) regulation, the Classification, Labelling, and Packaging (CLP) regulation, Biocidal Products Regulation (BPR), medical devices, electronic products, and general product compliance and product safety. He advises on regulatory compliance of a broad range of products marketed in the EU and represents clients before EU and national competent authorities on compliance and enforcement issues, including product withdrawals and recalls.
- ◆ Ales also represents clients before the Court of Justice of the European Union and the Board of Appeal of European Chemicals Agency.





I. Applicability of PFAS Limits under PPWR



PPWR PFAS Limits Mirror REACH

- ◆ PPWR PFAS restriction will be applicable from August 12, 2026
- ◆ **Food** packaging will be prohibited if it contains PFAS in a concentration of or above:
 - ◆ 25 ppb for any PFAS as measured with targeted PFAS analysis (250 ppb as sum)
 - ◆ 50 ppm for PFAS measured as total fluorine
 - ◆ If total fluorine above 50 ppm, source must be investigated

- ◆ Guidelines published on March 30, 2026, available [here](#).

Stepwise approach for enforcement of PFAS in food packaging:

- ◆ 1. Total Fluorine (TF) quantification (step 1): If TF is below 50 mg/kg, sample could be considered compliant.
- ◆ 2. If TF is above 50 mg/kg, methods such as pyrolysis-GC/MS can be used to confirm whether the fluorine is organic (PFAS) or inorganic in step 2. If the organic fluorine is below 50 mg/kg, the sample could be considered compliant.
- ◆ 3. Direct TOP (total oxidizable precursors) analysis is recommended to check compliance with the 25 µg/kg and 250 µg/kg concentration limit in step 3

On the basis of the evidence currently available to the Commission, all samples compliant with test (1) are also compliant with tests (2) and (3).

Relevance of the Guidelines

- ◆ Commission Guidelines not binding, but largely followed by MS enforcement authorities
 - ◇ But: e.g., France disagreed
- ◆ Directly applicable to REACH restriction limits (unless Guidelines repealed): EC interpretation must be consistent
 - ◇ Same limits: same interpretation

Stockpiling

- ◆ Under PPWR, transition period until August 2026
 - ◇ REACH restriction: so far 18 months after EiF
- ◆ Stockpiling possible under PPWR restriction in some cases (placing on the market = first making available)
- ◆ Difficult under REACH (placing on the market: any supply; stockpiling only if with end users)

Concept of Placing on the Market under PPWR

- ◆ Packaging placed on the market before 12 August 2026 may remain on the market and does not need to be withdrawn. (...) In general, sales and grouped food-contact packaging are placed on the market when they are filled, (...) while transport and service packaging are placed on the market empty.
- ◆ A manufacturer could place empty or filled food-contact packaging on the market by a mere transfer of the legal possession. For imported packaging or packaged products, the relevant timestamp is the 'release for free circulation'



II. Publication of ECHA Opinions on REACH Restriction



Publication of Opinions

- ◆ On March 26, 2026, ECHA issued draft SEAC Opinion and final RAC Opinion
- ◆ Both available [here](#)



A. Draft SEAC Opinion



Scope of Draft SEAC Opinion

- ◆ Organized in 14 sector evaluations corresponding to the original 2023 proposal
- ◆ 8 new sectors in the August 2025 amended proposal not assessed due to timing constraints (including e.g., sealing and machinery applications)
 - ◆ Left for the Commission

Focus of SEAC Opinion

- ◆ SEAC Opinion focused on:
 - ◆ Analysis of alternatives
 - ◆ Socio-economic analysis: costs of substitution, emissions
 - ◆ Derogations

Derogations in Draft SEAC Opinion

- ◆ Basically copy-paste of derogations proposed in the 2025 amended proposal

BUT!

- ◆ SEAC often disagrees with PFAS proposal (derogation not justified, or insufficient data to assess if derogation is justified)
 - ◆ SEAC often points at insufficient or inconclusive data
 - ◆ For example: derogation ‘likely not justified’ for low/mid-temperature applications in electronic insulation and cables and wires
 - ◆ Serious disagreements regarding fluorinated gas applications
 - ◆ But: favorable to extension of transport derogation to all PFAS

The Eight Sectors

- ◆ With respect to the eight sectors not assessed, SEAC states that it does summarily support the derogations as proposed in the 2025 proposal = they should be subject to a thorough assessment



B. Second Public Consultation



Second Public Consultation

- ◆ Second public consultation on draft SEAC opinion will last until May 25, 2026
 - ◆ Link [here](#)
 - ◆ Missing (or insufficient) exemption in the amended Background Document? Submit comments!
 - ◆ SEAC identified a data gap, or not supportive to derogation? Submit comments!

Unlimited Derogations?

- ◆ Most of derogations so far proposed for 13,5 years
 - ◇ Arbitrary limit, not tailored to specific applications

Example of lubricants (incl. lubricant coatings): *'there are no technically feasible alternatives in general for industrial and professional uses. (...) Given the wide range of sectors and applications, developing alternatives for most applications is unlikely within a few years.'*

The only proportionate solution providing necessary legal certainty: provide unlimited derogation for uses without a viable alternative until it is available

Subject to a review period? E.g.: unlimited derogations reviewed every 10 years: regular calls for evidence for alternative substances: once available in sufficient amount and confirmed that it can pass certification: restriction amendment (full process – proposal, RAC and SEAC opinions, Commission)

Format for Public Consultation

- ◆ It will be limited to the description of uses, derogations, and analysis of alternatives.
- ◆ In the form of a survey; no possibility to submit attachments; limited space for free answers (5000 characters).
- ◆ Not targeted to eight uses not assessed: however, these sectors can (and should) be addressed in the general part of the survey.
 - ◆ The message will then be conveyed to the European Commission that will be tasked with evaluating these additional sectors and coming up with the final text of the PFAS restriction.

Guidance to Applicants

- ◆ ECHA has provided a [Guidance Document](#) to help the applicants prepare for submission as well as a [document mapping the uses in the survey](#).



C. Final RAC Opinion



Main Conclusion

- ◆ *‘Regardless of the sector of use, PFAS releases present a risk, and the risk increases with continued use due to the high persistence of PFAS and other properties of concern’*
- ◆ *‘There is no evidence that the release of PFAS (...) is adequately controlled and, therefore, it should be minimized’*

Additional Risk Management Measures

- ◆ RAC opinion introduced:
 - ◆ Labeling requirement related to the presence of PFAS in derogated uses
 - ◆ Extended reporting requirements for derogated uses, and
 - ◆ Some new risk management measures, such as an obligation to monitor activities on PFAS



D. Next Steps



Publication of the Opinions

- ◆ ECHA's final RAC and SEAC Opinions to be published by the end of 2026

European Commission Stage

- ◆ When RAC and SEAC finalize their opinion (end 2026), it will be shifted to the European Commission for final decision
 - ◇ Many rounds of discussions at Commission's REACH Committee
- ◆ No public consultation, but still advocacy possibilities!
 - ◇ Either directly with the Commission, or through MS representatives at REACH Committee
- ◆ **Final Restriction Regulation not likely before 2029/2030**
 - ◇ + transition/sell off period (18 months proposed)
- ◆ Final Regulation may be subject to legal challenge



Thank You

Any questions?

Ales Bartl, Ph.D.

Partner

Brussels, Belgium

+32 (0) 2 645 5085

bartl@khlaw.com



Scan to connect with me on LinkedIn!

