

PFAS + Plastic Pellet Losses

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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.



Agenda

- ◆ Update on PFAS
- ◆ New Plastic Pellet Losses Regulation



I. Update on PFAS



PFAS ban in food packaging applies from August 12, 2026

Final PPWR Guidelines published in June 2026: 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)

Consequences

- ◆ Commission PFAS task force's proposal (if TF between 10-50 ppm, go to targeted PFAS analysis) **not upheld**
- ◆ But: Commission's guidance document not binding!
- ◆ Member States may adopt their own position
 - ◆ E.g. France disagrees
 - ◆ Final interpretation for the EU Court
- ◆ May only be temporary as PFAS analytical methods + labs capacity improve
- ◆ Our take: blind reliance on 50 mg TF not recommended: DD of materials warranted for likelihood of contamination by individual non-polymeric PFAS; consider testing if targeted analysis available
- ◆ Our take: suppliers' declarations that PFAS not intentionally added may not be sufficient; push suppliers to test; otherwise, own testing for 50 mg TF may be warranted (especially if recycled materials)

Update on PFAS REACH Restriction

- ◆ Second public consultation ended May 25, 2026
- ◆ Final RAC and SEAC Opinion will be published before year-end
- ◆ The Commission is already working on draft Regulation (for 2027)
 - ◇ Followed by discussions at CARACAL and REACH Committee (2 years at least)
 - Still advocacy possibilities
 - ◇ The final Regulation to be published likely in 2030 (+18 months transition period)

Commission's Position?

- ◆ Commission driven by pro-competitiveness approach (DG GROW)
- ◆ Past rumors: (all) industrial uses to be exempted indefinitely (hurdle to define 'industrial uses'); (all) consumer uses banned
- ◆ More likely: Commission now looking at uses individually
 - ◆ Some industrial uses which have alternatives available – ban
 - ◆ Maybe even some consumer uses with derogation?

Commission's approach still not clear

Swedish proposal to ban PFAS in consumer products

- ◆ Announced on 23 July, public consultation until 30 November
- ◆ Covers clothing, footwear, impregnating agents for clothing and footwear, kitchen utensils, cosmetic products and ski wax
- ◆ Same limits as REACH PFAS proposal
- ◆ It would take effect from 1 January 2028
- ◆ Exemptions e.g. for clothing containing at least 20% post-consumer recycled material
- ◆ Similar bans already in place in France and Denmark



II. Plastic Pellet Losses



- ◆ Regulation (EU) 2025/2365 on preventing plastic pellet losses to reduce microplastic pollution
- ◆ Published on November 11, 2025
- ◆ Will apply from December 17, 2027

- ◆ Applicable to:
 - ◇ Economic operators handling plastic pellets in the Union above 5 tonnes/year (all, including e.g. warehouses)
 - ◇ Economic operators cleaning plastic pellet containers and tanks
 - ◇ EU carriers and non-EU carriers transporting plastic pellets in the Union, and
 - ◇ Shippers and operators, agents and masters of seagoing vessels transporting plastic pellets in freight containers leaving or calling at a port of a Member State
- ◆ Plastic pellets: without size threshold

- ◆ In principle also applicable to non-EU entities, however only if they handle or ship pellets or clean containers in the EU.
- ◆ However, non-EU entities may be shippers (defined in Article 2(8))

Obligations for Carriers and Shippers

- ◆ Carriers have primarily obligations in Annex III (+ notification obligation)
- ◆ Shippers have obligations set out in Article 12 of the Regulation

Basic Obligations for Economic Operators (Handlers and Cleaners)

- ◆ General obligation to ensure that losses are avoided. Where losses occur, to take immediate action. (Article 3)
- ◆ Notification to the competent authorities of each installation (Article 3(2))
- ◆ Establish and maintain a risk management plan (Annex I) and notify it to the competent authority (Article 5(1))
 - ◇ Implement the actions in the risk management plan
 - ◇ If above 1,500 tons/year: *obtaining a certificate issued by a certifier to demonstrate compliance with risk management plan every three years.* (Article 6(1))
- ◆ Train staff (Article 5(6))
- ◆ Keep records of annually estimated quantities of losses and of the total quantities of plastic pellets handled (Article 5(5)(b)).

Pictogram

- ◆ Mandatory pictogram for plastic pellets that qualify as synthetic polymer microparticles under REACH Microplastics Restriction
 - ◇ To be added to the label, packaging, packaging leaflet, or safety data sheet.
- ◆ Independent from instructions under Article 7 of the REACH Microplastics Restriction
- ◆ But will typically be provided together with the microplastics instructions (typically on SDS)



Harmful to the environment – avoid losses

Standards to be Adopted

- ◆ Harmonized standards to estimate the quantities of losses to be yet adopted

Existing Voluntary Pledges

- ◆ Voluntary pledges such as Operation Clean Sweep: importance recognized in Recitals, but not endorsed as automatic compliance tool
- ◆ But there is a correlation

- ◆ In order to prevent marketing disruptions in case of downstream non-compliance, you may want to check if all actors are aware of their obligations
- ◆ Non-EU manufacturers to check if any specific information, such as any specific safe handling instructions to minimize environmental risk should be communicated downstream

Thank You

Any questions?



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