

Restriction proposals on per- and polyfluoroalkyl substances (PFAS)

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IN BRIEF

FoodDrinkEurope supports the removal of per- and polyfluoroalkyl substances (PFAS) from use in food contact applications where proven alternatives are readily available and the functionality and safety of food processing equipment, processing aids, and food packaging are maintained.

In this paper, FoodDrinkEurope provides our key recommendations on proposals to remove PFAS from use in food contact.

KEY MESSAGES

- Any restrictions of PFAS from use in food contact should provide for a controlled and organised assessment of use, presence, alternatives, and removal across sectors;
- Any substitutions of PFAS in food contact should not put food production, food safety, or food security at risk;
- Any restrictions of PFAS from use in food contact need to be complemented with actions to mitigate the occurrence of PFAS in the environment and in the agri-food chain.

In order to produce safe food and drink products, any restrictions on the use of PFAS need to be complemented with actions to mitigate the occurrence of PFAS in the environment and ultimately in the agri-food chain.

To effectively control and reduce PFAS contamination in food, the European Commission [Regulation \(EU\) 2022/2388](#) sets a series of maximum levels (MLs) of PFAS in certain foodstuffs. In parallel, European Commission [Recommendation \(EU\) 2022/1431](#) establishes a monitoring exercise of PFAS in food. During the stakeholder consultation on the draft Regulation and Recommendation, FoodDrinkEurope pointed at the current data gaps and the need for collecting more data and refining the analytical methods before setting MLs. One of the key issues for monitoring the presence of PFAS is the absence of standardised analytical methods for this large and complex family of substances to be tested across food categories with very different matrices.

The European Chemicals Agency (ECHA) has invited interested parties to contribute to the consultation on a PFAS restriction. ECHA's scientific committees for Risk Assessment (RAC) and for Socio-Economic Analysis (SEAC) will use the consultation input to evaluate the proposed restriction and to form an opinion on it. In these opinions and background documents, ECHA's scientific committees should consider the data gaps and how the restriction could offer opportunities for cross-sector identification of the presence and gradual removal opportunities of PFAS.

The restriction proposal should provide for a controlled and organised assessment of use, presence, alternatives, and removal across sectors. Any substitutions of PFAS in food contact applications should not put food production, food safety, or food security at risk.

By the current Food Contact Materials and Articles (FCM) Regulatory Framework, business operators supplying food processing equipment, processing aids, and food packaging must provide customers with proof of compliance for the material or article. Currently there is no legal obligation to declare PFAS as constituents of materials and articles. This makes it impossible for food business operators to identify where and which PFAS have been applied (in food processing equipment, processing aids, and food packaging).

The upstream value chain (suppliers of food processing equipment, processing aids, and food packaging) should act, rather than the food and drink business operators, in doing the assessment of use, and the search for PFAS alternatives. The food and beverage industry can only undertake identification of presence in our final products, and that can only be done once standardised methodology is available.

Thus, FoodDrinkEurope recommends the following:

Food Packaging

1. The food safety and food quality preserving functions of food packaging must be maintained as they are essential for food security and sustainable food systems.

2. Duration of implementation period (currently 18 months) must be evaluated by the upstream food packaging value chain to allow the reasonable development and market-availability of alternative materials for PFAS applications in food packaging.
3. PFAS traces are likely to be found in feedstock for recycled packaging. Consistency between the restriction proposal and the recycled plastic regulation (EU) 2022/1616, and objectives of the future revision of the FCM regulatory framework, is therefore needed. This is especially true for the low limits of PFAS in articles that are foreseen in the restriction proposal (250 ppb). A step-wise approach is needed that enables achieving recycling targets and removal of PFAS from recycled waste stream.

Food contact materials in food processing operations (factory equipment)

4. The presence and identification of PFAS needs to be evaluated by the food processing equipment manufacturers to allow for the development of alternatives.
5. The categories of FCM that have a 5-year time derogation beyond the 18-month implementation period must be widened to all items of capital plant equipment (including non-stick surfaces), to allow the facilitation and development of reasonable alternatives.

Other considerations

6. Only intentional use of PFAS in FCM is to be restricted. Any proposals should be coherent with the EU FCM regulatory framework that includes the concept of Non-Intentionally Added Substances (NIAS), which if present, are individually risk-assessed against toxicological criteria (i.e., Reg. (EU) 10/2011 Article 19). Given the persistence of PFAS in the environment, the PFAS restriction should encompass potential future scenarios and therefore it must expressly state intentional use (in manufacturing) and/or presence (in materials), and continue to manage their presence as NIAS (e.g. contamination) in FCM on a case-by case basis.
7. Currently the PFAS restriction proposes limits of 25 ppb ($\mu\text{g}/\text{kg}$) for individual PFAS and 250 ppb ($\mu\text{g}/\text{kg}$) for the sum of all PFAS in articles. Ahead of the proposed entry into force, and to attain proposed low restriction limits, a clear EU-standardised method for testing for PFAS presence and quantification is needed. Likewise, there is also a need for more validated standard methods for analysis of PFAS in various foods (Vorst et al, 2021¹). Thus, an appropriate methodology for quantification of PFAS in finished foods and packaging will need to be further improved and established as an official method.

¹ Vorst et al, 2021, Risk assessment of per- and polyfluoroalkyl substances (PFAS) in food: Symposium proceedings: <https://doi.org/10.1016/j.tifs.2021.05.038>

8. Due to the persistence of PFAS in the environment, the presence of PFAS in food should not lead enforcing authorities to interpret that as evidence of non-compliant FCM. To demonstrate compliance it shall be a legal defence for food business operators to have certifications from suppliers that PFAS has not been intentionally used, for example the DoC for food contact plastics (Reg. (EU) 10/2011), and similar declarations.
9. PFAS are used in industrial processes and paradoxically contribute to food quality, e.g., in many production applications from quality control equipment in the laboratories to flow meters and sealings of pipes. Therefore, to ensure the continued production of safe food in the EU, suitable alternatives to PFAS should be developed and made available on the market before restrictions are applied.
10. The bans of substances of concern will impact downstream and end-users. More so, as these substances are selected and used in multiple products and applications many steps upstream, and thus, out of sight. Business to business communication needs to be more transparent to food business operators. This could be facilitated through existing DoC mechanisms, or through online and system tools for supply-chain declarations. Measures on PFAS restrictions must also consider mechanisms to improve transparency in the various supply chains.

FoodDrinkEurope is committed to the highest level of food safety and quality in food manufacturing and continues to work closely with all stakeholders in the food chain and with authorities to identify the sources of PFAS along the value chain and mitigate their presence in foods.

The forthcoming ECHA opinion and further decisions by the European Commission should support this societal effort and collectively contribute in making the transition to more sustainable food systems possible.

About us

The EU food and drink manufacturing industry is made up of 294,000 businesses employing 4.6 million people. It generates €230 billion in value added every year and is the largest manufacturing industry in terms of jobs created. As an industry comprised of 99% SMEs our enterprises are intimately linked with their local communities. FoodDrinkEurope is the organisation of the European food and drink manufacturing sector, committed to achieving more sustainable food systems.