

POSITION PAPER

The use of PFAS in construction chemical products

The proposal to restrict per- and polyfluorinated alkyl compounds (PFAS) provides for a comprehensive ban on the production, use and placing on the market of PFAS. The restriction proposal covers not only individual substances, but a specific structural element of chemicals, so that a large group of several thousand known substances is covered by the restriction. This makes it the most comprehensive restriction dossier since the introduction of the REACH Regulation and has a potentially large impact on the chemical industry.

Deutsche Bauchemie comments on the restriction proposal as follows:

- › In general, the member companies of Deutsche Bauchemie do not use PFAS as primary formulation components for the manufacture of construction chemical products and see both the obligation and the technical possibility to substitute PFAS in a timely manner for the rare exceptional cases, where they are used as primary formulation components.
- › Due to the lack of labelling or declaration obligations on PFAS in raw materials so far and the immense scope of substances to be regulated under the planned restriction, formulators of construction chemical products are currently unable to make any statement on the scope of PFAS "introduced" into construction chemical products via raw materials.
- › Due to this situation, the construction chemicals industry cannot currently assess, whether PFAS-free alternatives are available for raw materials containing PFAS and whether these would have a technically comparable performance in the corresponding products. The necessary technical application tests must be carried out in each individual case and are costly and time-consuming.
- › Against this background, it is of utmost importance that the affected actors in the supply chains can use sufficiently long transition periods to identify the relevant cases, check the availability of PFAS-free alternatives and, if necessary, investigate their technical applicability.
- › From a formulator's point of view, it is therefore important that not only PFAS themselves but also the raw materials containing PFAS must be tested for their substitutability. In this sense, the "essential-use concept" must be applied not only at substance level, but at all levels of the supply chains concerned. This should be taken into account conceptually when reviewing and assessing "essential uses".
- › Products, that were produced before the restriction comes into force - and where the formulator may have been unaware that they contained PFAS - should be exempt from the restriction.
- › It should also be noted that the necessary transition periods should not be set across the board for the entire supply chain, but rather in such a way that each of the actors concerned has sufficient time to initially identify and then fulfil their obligations.

- › The problem outlined from the point of view of downstream users not only arises relating to the planned PFAS restriction, but also with other general substance group related regulatory risk management measures in European chemicals legislation and is becoming increasingly important in the course of the foreseeable development.
- › An example is the recently adopted restriction on synthetic polymer microparticles. Again, formulators (industrial downstream users) cannot assess with certainty whether a raw material contains synthetic polymer microparticles and falls under the scope of the restriction without corresponding additional information from their raw material suppliers.

Unfortunately, the transition periods by which raw material suppliers must inform their customers (industrial downstream users) about possible obligations under the restriction and by which industrial downstream users have to fulfil their obligations are identical. This leads to a situation where, in the worst case, the industrial downstream users do not have time to identify and implement the fulfilment of their own obligations after receiving relevant information from the raw material supplier. This situation is unacceptable from the formulator's point of view and should be avoided at all costs in future.

Irrespective of the product-related problems described above, PFAS play an essential role in many industrial production facilities in the chemical industry. Due to their chemical and thermal persistence and durability, fluorinated polymers are essential components of chemical plants in the form of seals, valves, coatings, membranes, hoses, or lubricants. In this way, they make a significant contribution to the safe operation of chemical production plants and to protect the environment and the chemical product from contamination. Due to their properties, fluorinated polymers are difficult to replace in these areas of application, if at all, without restricting the functionality and safety of industrial plants. This also applies to production plants in the construction chemicals industry without restriction.

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As an industry association, Deutsche Bauchemie represents the entire construction chemicals industry in Germany. In 2022, the more than 130 member companies with around 32.000 employees generated sales of 8.9 billion euros. This corresponds to half of the European market volume and about a quarter of the world market. Under the umbrella of the German Chemical Industry Association (VCI), Deutsche Bauchemie has been representing the interests of its member companies for 75 years, to the public, political actors, authorities, other industry sectors, science and the press.