

ECHA PROPOSES RESTRICTION ON TERPHENYL HYDROGENATED

Summary

Terphenyl hydrogenated is a synthetic substance, mainly used as a heat transfer fluid (HTF). It was identified by ECHA as a Substance of Very High Concern (SVHC) in 2021 because of its very persistent and very bioaccumulative (vPvB) properties.

Italy submitted a proposal to restrict the use and placing on the market of terphenyl, hydrogenated in concentrations greater than 0.1 % by weight.

The proposal includes derogations for uses in situations where emission can be minimised, i.e. heat transfer fluids and uses with higher socio-economic impacts, such as the use of the substance in the aerospace and defence sector.

SEAC have agreed their draft opinion on the proposal which is now subject to a 60 consultation for interested parties. Comments received will be taken into account before SEAC adopt their final opinion.

SEAC draft opinion consultation

The consultation on the SEAC draft opinion for this proposed restriction will start on 15 March 2023 and end on 15 May 2023.

Interested parties can comment on the draft SEAC opinion using the relevant web form on the ECHA website.

When submitting comments, please keep in mind that:

- It is usually necessary to provide **supporting evidence** (i.e. in the form of references, data or other information) alongside comments. Without supporting evidence, it is usually not possible for SEAC to evaluate the credibility of the comment.
- Where respondents **request a derogation** from the proposed restriction the following supporting evidence should be provided:
 - A detailed description of the use of the substance, including the quantities used/released, technical function, sector of use, article category. etc;
 - Information on **alternatives**, including and assessment of their availability, technical feasibility and economic feasibility; if alternatives are available a detailed description of a substitution timeline;
 - The **socio-economic impacts** to society in case a derogation is not included in the restriction. This includes, for example¹:
 - Impacts to industry (e.g., manufactures, importers, downstream users), including related to alternatives providers;
 - Impacts on consumers (e.g., prices or product performance);
 - Impacts on society, (e.g. employment);

¹ Further relevant socio-economic impacts are described in Annex XVI of REACH

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- Wider implications on trade, competition and economic development, in particular for SMEs);
 - Benefits for human health or the environment (e.g. worker health)
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- Information arriving after the closing date or via channels other than the web form will **not be taken into account**.
 - It is your responsibility to remove **confidential information** from the comments and attachments submitted with non-confidential status.
 - As far as possible, justifications based on non-confidential information are preferred to those based on confidential information. Should the submission of confidential information be considered to be fundamental to describe socio-economic impacts (i.e. in the case that a use is restricted), then a non-confidential form of the confidential information (i.e. generic use descriptions, a tonnage or concentration range or aggregated data from multiple sources to prevent back-calculation) should be submitted in addition to the confidential information. This is to allow for the most transparent discussion of the justification for a derogation in the SEAC opinion.

Further information can be found in the consultation guidance available at: https://echa.europa.eu/documents/10162/13641/restriction_consultation_guidance_en.pdf

When responding to the consultation, stakeholders should ensure that they are referring to the SEAC draft opinion and the most recent version of the Background Document and its annexes that are published on the ECHA website alongside the consultation.

How to submit a comment in the consultation on a SEAC draft opinion

When you are ready to make your comments, click on the appropriate link on the ECHA website. Please be aware that it is not possible to save your submission and come back to it, so you should already have your comments prepared in an attachment or saved in some other format in advance.

The web form contains five main parts:

- Introduction: containing some general information on the restriction and a link to this note and the consultation guidance.
- Section 1: personal information.
- Section 2: organisational information.
- Section 3: non-confidential comments on the SEAC draft opinion - both general comments and information on specific issues (see below). Your responses can be entered directly into the form or through section 4 as an attachment. However, please do not submit the same comments via both means. General comments can be on any aspect of the SEAC draft opinion.
- Section 4: Non-confidential attachments can be added here.
- Section 5: Confidential attachments can be added here. Confidential information

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will only be available to the ECHA Secretariat, the Committees and Member State Competent Authorities. However, if ECHA receives an Access to Documents request, we may come back to you for justifications why the information is confidential. You can also add this information already in the relevant part of the webform.

Once you have finished your submission press the submit button and your comments will be submitted. You will receive a submission number via e-mail, and you should refer to this in any communication with ECHA on this issue. It is not possible for you to retrieve your submission so you may want to take a screen shot, or printed copy for your future reference.

Specific information requests

In addition to the general comments, outlined above, the consultation includes several specific questions to gather information that is considered to be particularly relevant to the evaluation of the proposal, as follows:

- 1) The proposal includes a derogation for the use of terphenyl, hydrogenated as a heat transfer fluid for use in industrial sites within strictly controlled closed systems. SEAC concluded that this derogation should be time-limited, and that the time limit should be based on the expected operating life of the relevant installations. SEAC proposes that a time limit of 20 years could be appropriate. Please provide evidence regarding whether this is the case.
- 2) What impact would a time limited derogation for the use of terphenyl, hydrogenated as a heat transfer fluid for use in industrial sites (as described in question 1) have on the profitability of installations where heat transfer fluids are used and on investment decisions? What would be the impact if the time limit were shorter than 20 years?
- 3) What would be the impact of not granting a derogation for the use of terphenyl, hydrogenated in applications of electromechanical temperature controls of ovens and stoves or of electrical capillary thermostats?
- 4) What would be the impact of a restriction of uses other than industrial HTF uses, uses in electromechanical temperature controls of ovens and stoves or in electrical capillary thermostats and uses in the aerospace and defence sector?

Next steps

After SEAC adopts its final opinion in June 2023, the opinions of RAC and SEAC will be combined and sent to the European Commission. The Commission will take the decision whether to include the proposed restriction in Annex XVII of the REACH Regulation after discussions with the Member States in the REACH Committee.