

***"How PFAS is legally banned from the environment without causing enormous harm to socioeconomic coexistence"***

Dear Ms. Schreiber, Ladies and Gentlemen,

As a manufacturer of pumps, valves and drive technology, we believe that the currently escalating discussion about the restriction of PFAS by means of REACH regulation allows a chance to put the basic approach on a legally and methodically clean as well as economically sustainable basis.

The aim must be to prevent the spread of PFAS and the pollution of environment.

We believe the approach of the REACH regulation starts at the wrong end. A ban on the generation of PFAS may probably achieve the goal set but comes along with unacceptable socio-economic collateral damages.

We therefore propose that the environmental damage that can be caused by PFAS should be prevented where it is caused, for example in the products that enter the environment via the waste cycle. Through the regulated internal market the EU has the means to create the necessary rules to prevent the introduction of PFAS in the environment, without having to renounce the enabling character of PFAS for technological achievements (food industry, water supply, etc.).

The internal market rules are in the hands of DG GROW responsibility. Therefore, we address our request to you: Please get involved in the ongoing discussion as quickly as possible to prevent the looming disastrous result in the restriction of PFAS substances.

In return, we offer to promote broad support for a "PFAS-CE label" within the industry. We are no stranger to this and have built up a reputation beyond our own industry within the development of regulations under the Ecodesign Directive via the Europump association.

Attached to this letter you will find aspects of the PFAS discussion which motivated us to write it and we hope to move forward with a meaningful new legislative approach for the ban of PFAS.

We are ready to discuss this subject in more depth and to develop it further at any time.

Yours sincerely,

**wilo**

**KSB** 

## **Appendix:**

### *The current situation in the discussion of the legislative process for PFAS regulation*

The current developments, see also the article "EU to drop ban of hazardous chemicals after industry pressure", published on the website "www.theguardian.com" from 11.07.2023, draw a very negative picture of parts of the industry (not only chemical industry but also the equipment industry). We strongly disagree with the perspective described there. As we fear that lobbyists (in one direction or the other) will prevail in the end, this might lead to a PR disaster without comparison and even more severe with unforeseeable consequences for the environment. Nevertheless, the restriction of PFAS is unacceptable in its current drafted form. We do not believe it can legally be implemented correctly and its impact cannot be assessed.

### **Restrictions according to REACH**

The restriction procedure under the REACH Regulation, i.e. inclusion of substances in Annex XVII, per se allows further use of the listed substances except for the use restricted there. (Example entry 27, "Nickel and its compounds": further use possible except in jewelry; entry 48 "Toluene", not allowed as a substance or in mixtures used for adhesives or spray paints sold to non-professional users). The planned restriction of PFAS does not reflect this approach, but leads to a general restriction ("ban"), where only individual exceptions for use are allowed. This is a fundamental departure from the foreseen legislative principle.

The risk-based approach that should actually be applied is not followed; instead, a hazard-based approach is applied, although the hazard for a large proportion of PFASs cannot be proven to date. In this context, we refer to the consultation contribution (Document 27, No. 6003) <sup>1</sup>by Dr. Lucas Bergkamp.

### **Risk-based approach → PFAS processes**

Risk-based in this context means that on the one hand there is a differentiated consideration of the hazard (PFOA, PFOS, PFHxS etc. vs. fluoropolymers = polymers of low concern), and on the other hand the risk is assessed that there is an actual impact on humans and the environment (cosmetics, ski waxes, food packaging... vs. seals, insulation layers, membranes etc. in (mostly) closed applications such as batteries, chemical plants, process equipment...).

An unnecessary disruption by supply chain regulation of supply chains which are difficult to maintain themselves makes the situation even worse. Due to this complexity of the supply chain, the impact of a comprehensive PFAS ban cannot be fully assessed. Any disruption in the supply chain would bring the entire process to a standstill. Even labeling the use of PFASs in global processes would not improve the situation, as this cannot be implemented worldwide without gaps.

Rather, it makes sense to subject products in which PFAS remain to labeling so that a recycling process / controlled disposal is possible without negative impacts on humans and the environment.

From our point of view, the restriction of PFAS substances would make sense in a way that either:

- divides PFASs into further subgroups with comparable properties or
- Explicitly exempts certain PFAS (fluoropolymers) from the restriction.

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<sup>1</sup> ECHA Page all comment documents: <https://echa.europa.eu/de/restrictions-under-consideration/-/substance-rev/72301/term>

Direct link to Document 27: <https://echa.europa.eu/documents/10162/5a68048f-75e6-3732-1d70-a6da1cb66e5e>

Furthermore, it would be more expedient to initially restrict the applications of PFAS in which there is a direct risk to humans and the environment and there is a reasonable substitution option. All other uses should initially continue to be possible until sufficient knowledge is available with regard to substance data or risk assessment to enable the restriction lists to be extended.

We see major problems that many uses are difficult to restrict from today's perspective, as restriction leads to serious obstacles. We have listed a few examples as examples:

**Use of PFAS (mostly fluoropolymers) in applications/products:**

- Fluoropolymers often in technical applications for which there are no (present) suitable alternatives
- Especially fluoropolymers enable certain applications/ processes at all (renewable energy/ green deal/ high tech products...)
- "aggressive" or hazardous chemicals can no longer be produced (which are raw materials for other (non-PFAS containing) materials)
  - o Example hydrogen cyanide → Basic material for the production of various intermediates needed for the production of common plastics and other chemicals
  - o Steam cracker, process for cracking naphtha to produce e.g. ethene
- High-tech technologies (production of electronic components such as semiconductors in clean rooms) are not possible without fluoropolymers
- Use in safety-relevant processes often without alternative
- PFAS are necessary for digitalization and environmental transformation → many Green Deal goals are only achievable with PFAS (→ in particular fluoropolymers)

**CE mark for the use of PFAS in products**

In our view, a legislative variant that has not yet been sufficiently reviewed is a possible control of products containing PFAS by means of a corresponding CE marking regulation. In the area of machine safety, ecodesign and CE regulations for specific products, the manufacturer's responsibility in combination with market surveillance within the framework of the CE mark has proven to be quite effective. Here, improper use of any PFASs in and on corresponding products can be prevented in a targeted manner.

Our entire industry can address the question of what the concrete implementation of this requirement for products could look like and support this proposal.

We have the opportunity to have this debate with you and representatives of our industries.

In addition, a viable concept would be carried through us into wider industry sectors to achieve broad agreement.