

W. L. Gore & Associates' Comments on Dossier Submitters' Draft EU REACH restriction on PFAS

Public consultation

**Request for Derogation:
Articles already placed on the market**

September 2023

Gore appreciates the opportunity offered by the public consultation process to provide comments on the Proposal for a Restriction of Per- and polyfluoroalkyl substances (PFAS) (hereinafter '**Restriction Proposal**').

With this submission, we would like to explain why we believe that a derogation for products that are placed on the market before the end of the relevant transitional period is needed and justified.

I. Derogation Request

Gore respectfully requests to include the following derogation in Column 2 paragraph 7 of the proposed restriction:

Paragraph 2(c) shall not apply to articles placed on the market before the end of the transition period applicable to the respective article.

II. Need and Justification for Derogation Request

In line with other restrictions including the C9-C14 Restriction and the PFHxA Restriction draft, the proposed derogation is needed to exclude the second-hand market and articles still in the supply chain from the scope of the restriction.

Without an exclusion of the **second-hand market** from the scope, the restriction would lead to a significant economic loss in many areas. One of many illustrative examples is the used-automotive market. Used cars which contain many components made from PFAS and, in particular, fluoropolymers would no longer be allowed to be sold in the EU.

In addition, a restriction without an exclusion of the second-hand market would not be practicable and hardly be enforceable since single articles would need to be removed from the market and donations/sales of single articles between consumers would need to be controlled. PFAS content may not be apparent and testing would typically destroy the article.

Without an exclusion of articles in the **supply chain** the restriction would lead to enormous market disruptions and economic losses. In particular, for technically demanding products where fluoropolymers are used, there are very long supply chains. Due to the complexity of the products and long production chains, the exact duration of the production process cannot sufficiently be predicted and there is always a risk of delays, e.g. when other components are missing. Finished articles, as for example airplanes, that contain articles made from PFAS which were placed on the market before the end of the transition period, could not be placed on the EU market if the respective transition period expired during the production/assembly process of the complex product.

Finally, a restriction without an exclusion of the second-hand market and articles in the supply chain would have a **significant negative environmental impact** since an uncountable number of products would be banned from sale/re-sale and thereby become waste even if still new or have remaining service life.