

From REACH to POP: Is PFOA now completely banned?

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Delegated Regulation (EU) 2020/784 amended the [POP Regulation \(2019/1021\)](#) by adding PFOA to Annex I. Previously, substance restrictions regarding PFOA were regulated in the [REACH Regulation](#) (Entry No 68 of Annex 17). This entry is now to be removed in order to avoid redundant regulation (currently still pending, see [draft](#)).

Automotive suppliers in particular are often confronted with OEM demands for a complete relinquishment of PFOA. However, the details of the new regulation are often not known to OEMs.

Is use of PFOA now completely prohibited by its inclusion in the POP Regulation?

No. Like the previous entry in the REACH Regulation, the entry in the POP Regulation in principle provides for a permissible limit of 0.025 mg/kg. The entry also defines special exceptions. The exemption for articles already in use before the entry into force of the regulation is particularly relevant: "The use of articles already in use in the Union before 4 July 2020 containing PFOA, its salts and/or PFOA-related compounds shall be allowed".

"Use" is understood to mean "any processing, formulation, consumption, storage, keeping, treatment, filling into containers, transfer from one container to another, mixing, production of an article and or any other utilisation". The keeping of corresponding articles in a European warehouse (e.g. for use in further production) is therefore still allowed. As there is no time limit in this regulation, articles containing PFOA that were already in stock in the EU on 4 July 2020 can be "used up" for production.

What other transitional arrangements are there?

Article 4(2) POP Regulation contains another general exception: "For a substance added to Annex I or II after 15 July 2019, Article 3 shall not apply for a six-month period if that substance is present in articles produced before or on the date that this Regulation becomes applicable to that substance". Accordingly, articles containing PFOA may also be imported and used within 6 months under the same conditions.

What can suppliers do?

Affected suppliers should check the contractual arrangements with their OEM and, in case of doubt, proactively approach them and explain why it is permissible to "consume" the articles in stock in production and that this does not constitute a violation of the POP Regulation and contractual arrangements.

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