

## Statement on EU legal requirements regarding Perfluorooctanoic acid (PFOA), its salts and related substances.

The POP Regulation (EU) 2019/1021 is having huge impact on the European industry as whole. Regarding the recent listing of PFOA to Annex 1 of the POP regulation the automotive industry is particularly concerned whether millions of spare parts are still allowed to be used. Therefore, ACEA would like to provide the following statement regarding the definition of “use” within Article 4 (2) of the POP Regulation:

Following Article 4(2) sentence 2 of the POP regulation, products in use in the EU before 04. July 2020 can continue to be used without any time limitation.

The EU POP regulation refers to the definition of “use” as per Article 3 (24) of the EU REACH regulation as processing, formulation, consumption, storage, keeping, treatment, filling into containers, transfer from one container to another, mixing, production of an article or any other utilisation. Following the EC interpretation, the “use” however has to occur within the EU. Products undergoing any of these actions in the EU thus would be considered to be “in use” which also includes but is not limited to materials and components held in stock (storage).

However, following this interpretation, problems arise for products, originating from outside the EU for import into the EU, which contain PFOA (as articles or in complex objects, such as in spare parts or in vehicles). These cannot be imported into the EU after 04. July 2020, unless they were previously used in the EU before 04. Jul.2020 (i.e. re-imports).

Please refer to the Annex for more comprehensive guidance on the legal interpretation of this as well as other use-cases.

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### Disclaimer:

This document reflects ACEAs current state of understanding according to different official interpretations of Article 4(2) of the Regulation (EU) 2019/1021 on Persistent Organic Pollutants (POP Regulation) including its recent PFOA amendment. The findings of this document therefore are deemed to be preliminary.

The Competent Authorities for the POP Regulation published a preliminary interpretation on the implementation of Article 4(2) (POP-CA\_06-20\_05). According to the EC this interpretation is currently under review by the European Commission’s legal service and a reviewed version is expected to be published by end of August 2020.

This document therefore may not represent the finally agreed interpretation and may be updated accordingly.

The opinions expressed are in good faith and while every care has been taken in preparing this document, ACEA makes no representations and gives no warranties of whatever nature in respect of this document, including but not limited to the accuracy or completeness of any information, facts and/or opinions contained therein. ACEA, and its members cannot be held liable for the use of and reliance of the findings in this document.

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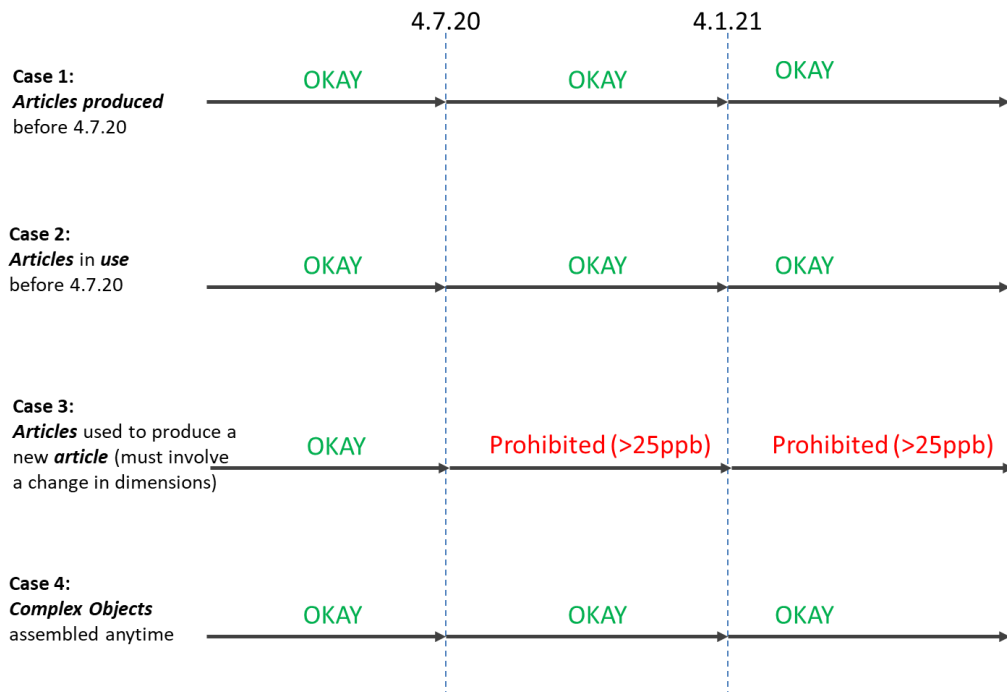
Source and basis for discussion result: “22nd MEETING OF THE COMPETENT AUTHORITIES FOR REGULATION (EU) 2019/1021 ON PERSISTENT ORGANIC POLLUTANTS on 9 JUNE 2020, Item 5 of the agenda - Implementation of Article 4 (2) of the POPs Regulation”

## Annex

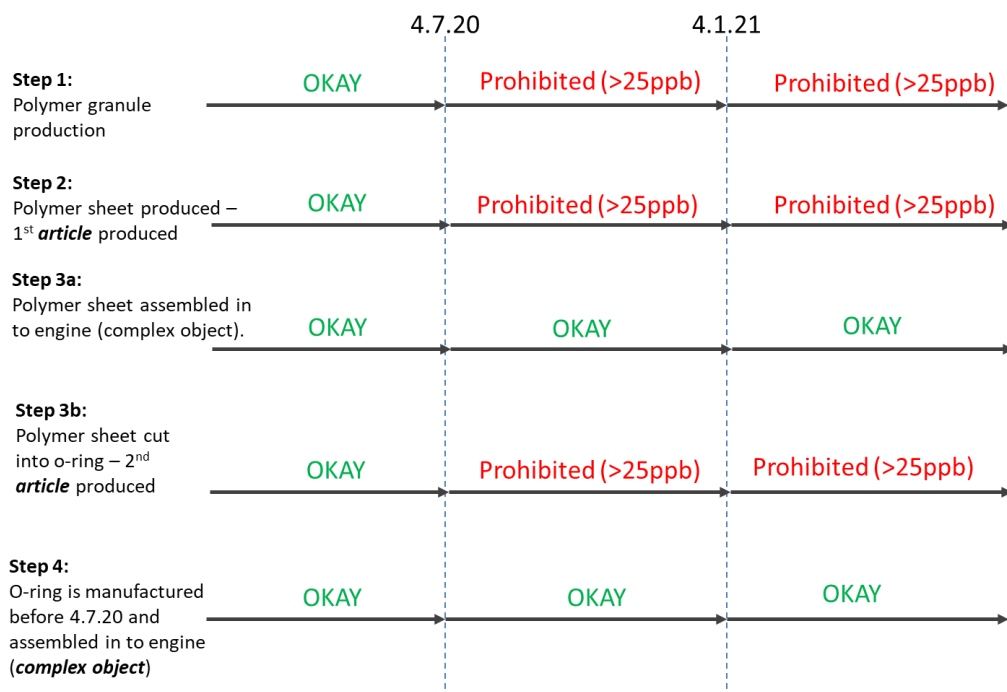
**The following definitions & assumptions are used in this document (based on the definitions in the EC document "Implementation of Article 4(2) of the POPs Regulation")**

- "In use in the Union" – This means that there is a differentiation between EU produced parts and parts imported into the EU.
- Imported parts into the EU cannot take advantage of the 6 months window
- Parts and vehicles making use of the derogations will need to notify the appropriate Member State if their "Stockpiles" exceed 50kg of PFOA.
  - Member States may have a different approach to these Stockpiles – some apply nationally (i.e. the 50kg limit applies to the country) and some apply federally (i.e. the 50kg limit would apply to the specific region / State within a country)
- "In use" – includes "processing, formulation, consumption, storage, keeping, treatment, filling into containers, transfer from one container to another, mixing, production of an article or any other utilisation"
  - Therefore, there is no difference between "Produced by" and "In use before" for an article.
- "Complex Objects" are an assembly of "Articles" and may include "mixtures"
- Only substances, mixtures and articles have the legal obligation to comply "
  - Complex Objects" comply if the articles and mixtures comply.
- Once an article, always an article
  - As soon as one article is produced, it is always an article
  - Several articles assembled into a component, make that component a "Complex Object"
  - If the article "undergoes a change of shape, surface or design", it is then classified as a new article

### For Parts Produced in the EU, Placing on the market is...



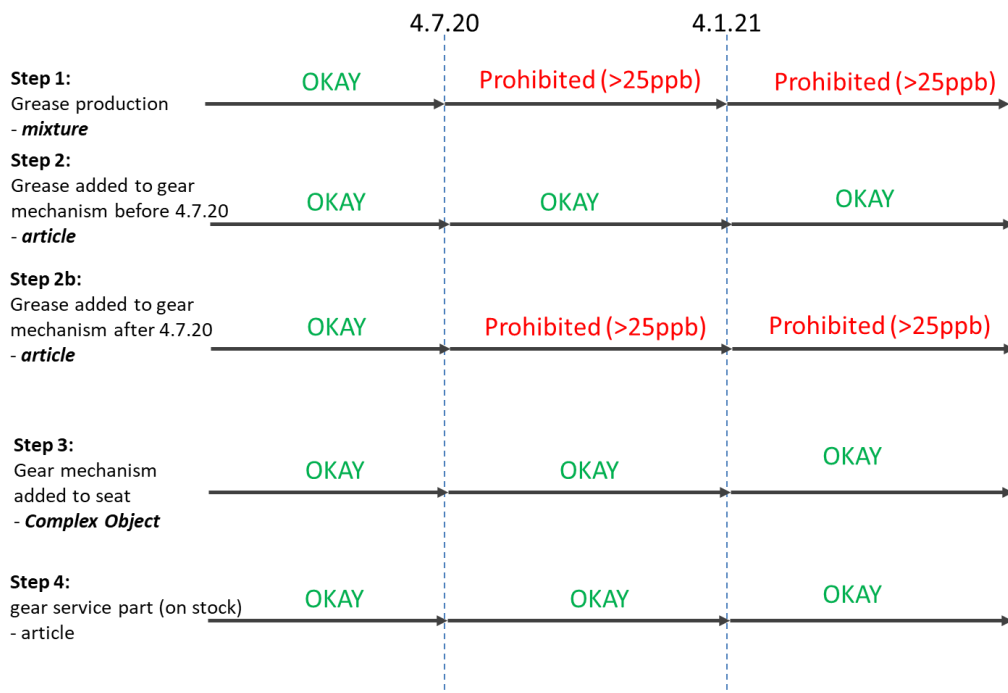
### Automotive Example 1 – PFOA containing polymer All EU Production - Placing on the market is...



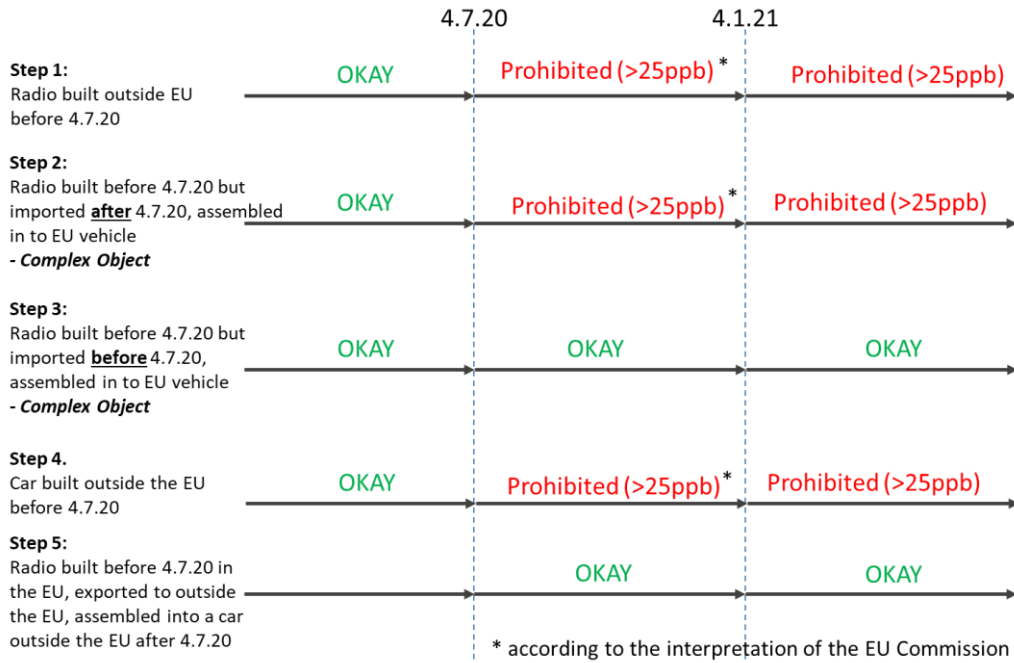
### Automotive Example 2 – PFOA containing resistor All EU Production - Placing on the market is...



### Automotive Example 3 – PFOA containing grease in seat All EU Production - Placing on the market is...



### Automotive Example 4 Imports in to the EU- Placing on the market is...



### Automotive Example 5 – Spare Parts Imports in to the EU- Placing on the market is...

