

## Position Paper „PFAS“

by Pharma Deutschland e.V. and the Association of the German Dental Industry (VDDI e.V.)

### Introduction:

PFAS are perfluorinated and polyfluorinated alkyl substances that are used in numerous industrial processes and products due to their special technical properties.

The national authorities of Denmark, Germany, the Netherlands, Norway and Sweden submitted a proposal to ECHA on January 13, 2023, to restrict PFAS under REACH, the European Union (EU) chemicals regulation. The restriction proposal was published after the five authorities identified risks in the manufacture, placing on the market and use of PFAS that are not adequately controlled and should be addressed across the EU and the European Economic Area. A [restriction proposal](#) was published on February 7, 2023. A first official six-month public consultation took place between March 22, 2023, and September 25, 2023. At the same time, the evaluation of the restriction proposal by the European Chemicals Agency began.

### ECHA's restriction proposal:

The submitted restriction dossier comprises two different scenarios. In the first scenario, a complete ban of all PFAS substances and PFAS-containing products without exception would take place 18 months after the restriction comes into force. In scenario two, a ban is planned with specific exemptions that are unlimited in time or allow a transitional period of 5 or 12 years in addition to the 18 months after entry into force. Both scenarios were considered proportionate by the dossier drafters, whereby the submitters of the restriction proposal see option 2 as the more balanced option, as it provides the opportunity for the search of alternatives and the smoothest possible exchange. As scenario 1 is not considered viable by the signatories, scenario 2 and its effects will be examined in more detail below.

## Impact on pharmaceutical manufacturers:

Scenario two includes a temporary exemption for active pharmaceutical ingredients (API). Other substances used in the manufacture of medicinal products (ingredients, excipients) as well as (manufacturing) processes are not exempt from the restriction proposal:

1. **APIs without EU authorisation**, this concerns e.g. PFAS APIs for worldwide export.
2. Chemical raw materials, synthesis starting substances, catalysts as well as e.g. intermediates and other substances and auxiliaries required for synthesis (e.g. solvents, hoses, filters, etc.) for **API production**.
3. **API in development**. From a production volume of one ton per year, the exemption for scientific research and development no longer applies and both production and further development are no longer possible in the EU.
4. Other '**non-active**' ingredients in medicinal products such as additives/excipients and propellants (e.g. for metered dose inhalers) as well as substances and auxiliaries **necessary for their manufacture** (e.g. solvents, tubes, filters, etc.).
5. **Primary packaging materials and sterile barrier systems**, even if they are part of the marketing authorisation.
6. Products containing PFAS such as seals, valves, hoses, filters and membranes which are required in production facilities **for the manufacture of medicinal products** and for their analysis.

## Impact on medical device manufacturers:

Scenario two includes an exemption for fluoropolymers or perfluoropolyethers in implantable medical devices (e.g. hip cups made from TEFLON). This exemption does not apply to nets, products for wound treatment, tubes and catheters. All other medical devices, substances used in manufacturing as well as (manufacturing) processes are not exempt from the restriction proposal:

1. **PFAS-containing ingredients in medical devices**, the following are some examples:
  - a) substance-based medical devices (example: ocular endotamponades (perfluorodecalin and perfluorooctane), auxiliary substances for sperm transfer in in vitro fertilisation (perfluorooctane)), these contribute to the physical effect of the medical devices as a whole.
  - b) Medical devices (example: ventilators, X-ray devices) that contain PFAS polymers or polymers with PFAS coatings (e.g. tubes, catheters, films, membranes or containers for 3D printing).

2. All substances required to **manufacture the ingredients/components of a medical device**, such as chemical raw materials, catalysts as well as e.g. intermediates and other substances and auxiliaries required for synthesis (e.g. solvents, tubes, filters, films, etc.).
3. **Medical devices under development** (including the above-mentioned exceptions)
4. **Primary packaging and sterile barrier systems** of medical devices. These are decisive for the shelf life of the product and are part of the technical documentation of the medical device.
5. Products containing PFAS such as seals, valves, hoses and membranes that are required **for manufacturing processes including associated production systems and analyses for medical devices.**
6. **Products equivalent to medical devices** that are not placed on the EU market.

### **Consequences of the restriction proposal:**

The overriding objective of all regulations must be to ensure the supply of medicinal products and medical devices to the population. This objective must not be lost sight of, particularly in view of the ever-increasing problem of supply shortages ([Good practices for industry for the prevention of human medicinal product shortages](#)). The restriction proposal also refers to the security of the supply of medicinal products to the population in the justification on page 72 for the exemption for active pharmaceutical ingredients (API): "Human MP are important for the protection of humans from diseases."

In scenario two of the restriction proposal, there is a temporary exemption for active substances in pharmaceutical products (API) and an exemption for fluoropolymers or perfluoropolyethers in implantable medical devices; this does not apply to nets, products for wound treatment, tubes, and catheters.

All other substances as well as processes in and during the manufacture of medicinal products and medical devices, as listed above in detail, are affected by the restriction. This will have far-reaching effects both in the area of medicinal products and medical devices, e.g. substance-based medical devices (example: ocular endotamponades, auxiliary materials for sperm transfer in IVF) may then no longer be available on the market without an alternative. This also applies to other medical devices (e.g. ventilators, X-ray equipment) that contain PFAS polymers or polymers with PFAS content, coatings (e.g. tubes, catheters, films or containers for 3D printing). Since all substances that are required to manufacture the ingredients/components of a medical device, such as chemical raw materials, catalysts as well as e.g. intermediate products and other substances required for synthesis (e.g. tubes, filters, films, etc.) are also not exempt from the restriction, massive problems will also arise here. This

is also transferable to e.g. PFAS-containing seals, valves, hoses and membranes, which are necessary for the manufacturing process of medical devices.

These issues are just as relevant for the manufacture of medicinal products, because despite a non-temporary exemption for active pharmaceutical ingredients (APIs), the (manufacturing) processes (see above regarding pharmaceutical manufacturers) and the substances required, such as chemical raw materials, catalysts, intermediates and other substances required for synthesis, are not exempt for API manufacture.

### **General requirements:**

A **clear legal structure** without multiple regulations is essential. Medicinal products and medical devices that have a marketing authorisation (API authorisation, marketing authorisation, MDR/IVDR, etc.) as well as restricted or regulated substances (F-gas, specific reach restrictions) should generally be excluded from the restriction proposal in order to avoid regulatory conflicts.

### **Requirements for medicinal products:**

In order to ensure the provision of medicinal products to the population and to achieve the goal of maintaining or even expanding the production of medicinal products in Europe, further specific exemptions (raw materials/intermediates, reagents, materials such as PVDF filters, PFAS-coated plant components for manufacturing) are necessary in addition to the exemption for active pharmaceutical ingredients (API), for an unlimited period of time. Transition periods must not only take into account technical development and substitution but must also take into account the duration/time required for requalification and revalidation, the performance of stability studies, regulatory changes (variations) or new authorisation (up to 10 years).

Pharma Deutschland and the VDDI are therefore calling for a complete exemption for the entire finished medicinal product, including manufacturing. This includes:

- 1. APIs without EU authorisation.**
2. Chemical raw materials, synthesis starting substances, catalysts as well as e.g. intermediates and other substances and auxiliaries required for synthesis (e.g. solvents, hoses, filters, etc.) **for API production.**
- 3. APIs under development.**
4. Other **'non-active' ingredients in medicinal products** such as additives/excipients and propellants as well as substances and auxiliaries **required for their manufacture** (e.g. solvents, tubes, filters, etc.).

5. **Primary packaging materials and sterile barrier systems**, even if they are part of the marketing authorisation.
6. Products containing PFAS, e.g. seals, valves, hoses, filters and membranes that are required in production facilities **for the manufacture of medicinal products** and for their analysis.

If the justified demand for a complete exemption is not implemented, an exemption subject to conditions (see ANNEX XV RESTRICTION REPORT - Per- and polyfluoroalkyl substances (PFASs), Proposed restriction - Annex XVII entry PFASs (Restriction Option 2), Point 8), such as the creation and regular maintenance of site management plans, would be conceivable.

If both the full exemption and an exemption subject to conditions for the required points 1 - 6 are rejected, an additional transitional period of at least 10 years to the maximum transitional period of 13.5 years granted in the restriction proposal, i.e. a total of 23.5 years, should be granted for the above-mentioned points 1 - 6.

An extension of the proposed transitional periods is necessary, as not only technical development and substitution must be taken into account, but additional periods for requalification, revalidation, carrying out stability studies, regulatory changes or new authorisation are also required.

### **Requirements for medical devices:**

In order to ensure the supply of medical devices to the population, further specific broad-based exemptions for medical devices (PFAS-containing ingredients, e.g. raw materials/intermediates, reagents and materials such as PVDF filters, PFAS-coated system components for manufacturing) are necessary in addition to the exemption for fluoropolymers or perfluoropolyethers in implantable medical devices, which is not limited in time. Transition periods must not only take into account technical development and substitution, but also the duration/time required for requalification and revalidation, the performance of stability studies, regulatory changes or new certifications.

Pharma Deutschland and the VDDI are therefore calling for a complete exemption for all medical devices, including their manufacture. This includes:

1. **All medical devices.**
2. All substances required **to manufacture the ingredients/components of a medical device**, such as chemical raw materials, catalysts as well as e.g. intermediates and other substances and auxiliaries required for synthesis (e.g. solvents, tubes, filters, films, etc.).

3. **Medical devices under development.**
4. **Primary packaging materials and sterile barrier systems** of medical devices, even if they are part of the technical documentation.
5. Products containing PFAS such as seals, valves, hoses and membranes that are required for **manufacturing processes including associated production equipment and analyses for medical devices.**

If the justified demand for a complete exemption is not implemented, an exemption subject to conditions (see ANNEX XV RESTRICTION REPORT - Per- and polyfluoroalkyl substances (PFASs), Proposed restriction - Annex XVII entry PFASs (Restriction Option 2), Point 8), such as the creation and regular maintenance of site management plans, would be conceivable. However, appropriate differentiation should be made between downstream users of PFAS plastics and other PFAS subgroups or activities.

If a complete exemption or a complete exemption subject to the required points 1 - 5 is not possible, we call for an additional transition period of 10 years to the maximum transition period of 13.5 years granted in the restriction proposal, i.e. a total of **23.5 years** for the above-mentioned points 1 - 5.

An extension of the proposed transition periods is necessary, as not only technical development and substitution must be taken into account, but additional periods for requalification, revalidation, performance of stability studies, preclinical and possibly clinical studies and their evaluation, regulatory changes or recertification are also required.

See appendix: 'Regulatory needs Exchange of a PFAS containing manufacturing device (e.g. tube, filter ...) with a PFAS free alternative'