Fluoropolymers
Product Group of Plastics Europe

4 February 2026

Submission to the Public Consultation on the Revision of Regulation (EU) 2019/1020 on Market Surveillance and Compliance of Products

Views of the Fluoropolymers Product Group (FPG) of Plastics Europe

1. Introduction and Context

The Fluoropolymers Product Group (FPG) of Plastics Europe welcomes the opportunity to provide input to the ongoing evaluation and revision of Regulation (EU) 2019/1020 on market surveillance and compliance of products (MSR). The MSR aims to ensure that only compliant products offering a high level of protection for public interests are made available on the Union market.

While the MSR seeks to improve enforcement tools and cooperation especially regarding online sales and complex supply chains we contend that the proposed broad Per- and Polyfluoroalkyl Substances (PFAS) restriction under REACH, particularly if implemented through a system of complex, time-limited derogations for use of fluoropolymers (FP), would fundamentally undermine the effectiveness of the market surveillance framework and render effective enforcement practically impossible.

The FPG maintains that a full exemption for fluoropolymer manufacture and uses is necessary, based both i) on the scientific evidence demonstrating their inherently low-risk profile; as high molecular weight polymers, they are chemically stable, non-toxic, non-bioavailable, and do not pose an "unacceptable risk" (REACH, Article 68); and ii) the major additional enforcement complexity that comes with including these low risk substances, which because of their unique combination of high performance properties are used across a wide range of sectors and applications.

2. Market Surveillance Failure under a Derogation-by-Derogation Approach

The proposed restriction on PFAS, if applied to fluoropolymers via phased or specific derogations, would force Market Surveillance Authorities (MSAs) and customs authorities to enforce complex compliance rules against products within already fragile supply chains and enforcement environments.

Whilst additional market surveillance actions have also been outlined in the Chemicals Industry Action Plan (CIAP) and harmonised risk-based controls and the coordination of enforcement through the EU Single Window Environment for Customs and the future EU Customs Data Hub are planned the ECHA Forum for Exchange of Information on Enforcement (Forum) in 2023 already raised it will not be possible to enforce a PFAS restriction foreseeing so many derogations for all the applications impacted.

A. Complexity of Value Chains and Traceability

Fluoropolymers are critical materials indispensable across numerous strategic sectors, including automotive (especially e-mobility/batteries), semiconductors, hydrogen production, aerospace, and medical devices.

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If the PFAS restriction is enforced via a "derogation by derogation" approach, the inherent nature of FP applications presents an insurmountable traceability challenge for market surveillance:

- **Embedded Use in Complex Articles:** Fluoropolymers are predominantly used in small, high-performance components within larger, complex finished articles, such as seals, gaskets, cables, membranes, or specialized coatings. A representative example is a smartphone, which uses fluoropolymers within its battery components for performance and safety.
- **The Problem of Component-Level Enforcement:** In a derogation scenario, MSAs or customs authorities controlling a complex finished product would need to verify not only whether the item contains a fluoropolymer but also whether that specific component and application qualifies under a time-limited or sectoral exemption. This is nearly impossible to verify via standard checks. For instance, an electric vehicle manufacturer may face numerous sub-applications spread across multiple sectors, each subject to different time-limited derogations, such as seals, gaskets, O-rings, refrigerant gases, wires and cables, textiles, batteries, and lubricants, making compliance highly complex.
- **Strain on MSA Capabilities:** Current MSR implementation already reveals significant challenges for MSAs concerning product traceability through complex supply chains, particularly for goods originating outside the EU. These issues are exacerbated by the rise of e-commerce and novel sales channels. Introducing complex material restrictions that require chemical analysis of internal components to check for expiry dates of exemptions would drastically increase the existing strain on MSA human and technical resources.

B. Insufficient Enforcement Mechanisms for Technical Restrictions

The MSR relies on effective border controls and the clear identification of a responsible economic operator (EO) established in the EU to ensure compliance. However, the current framework exhibits critical weaknesses that would be amplified by the highly technical nature of a PFAS restriction that includes FPs:

- **Difficulty Identifying the Responsible Operator (Article 4):** The MSR requires a responsible EO (manufacturer, importer, authorized representative, or fulfilment service provider) in the EU to handle compliance documentation. However, for products sold online from third countries (a key enforcement focus of the MSR), fulfilling the formal requirements of Article 4 already presents significant challenges, demonstrating a **low level of compliance**. If the restriction hinges on complex technical specifications subject to expiry dates, the responsible EO, if found, would face extreme difficulty maintaining and providing the necessary documentation, particularly for components sourced deep within global supply chains.
- **Inability of Customs to Perform Risk-Based Controls:** Currently, customs authorities often lack the necessary information, expertise, sampling, and testing methods required for effective risk management specific to chemicals and complex products at the border. If FPs are subjected to a restriction based on complex concentration levels or time-limited derogations, **enforcement will remain**

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insufficient and ineffective without adequate technical knowledge and resources among border authorities. Customs lack relevant risk information for identifying non-compliance, preventing effective enforcement at external borders.

- **Enforcement of Low Concentration Limits:** Should the restriction introduce extremely low emission or concentration limits achieving adequate practical enforcement against products containing PFAS at such minute levels will be challenging, requiring effective, resource-intensive sampling and testing that overburdens already constrained MSAs.

3. The Call for a Pragmatic, Enforcement-Friendly Solution

The complexity introduced by forcing MSAs and customs to police a "derogation by derogation" restriction model for fluoropolymers dramatically increases the regulatory and administrative burden. This approach risks undermining the objectives of the MSR by creating **unworkable enforcement scenarios** that allow non-compliant products to circulate, resulting in unfair competition for compliant economic operators.

The FPG therefore urges the Commission to adopt a pragmatic, risk-based approach that secures the EU's industrial base while ensuring effective, manageable regulation:

- **Full Exemption and Clarity:** The PFAS restriction should provide a **full exemption on fluoropolymer manufacture and uses**. We need immediate clarity over the long-term future of fluoropolymers in the EU to avoid investment uncertainties.
- **Regulate Emissions, Not Materials:** Since concerns about fluoropolymers relate mainly to emissions during manufacturing, processing, use, and end-of-life stages, the focus should shift entirely to regulating and implementing robust emission reduction strategies.
- **Leveraging Existing Legislation:** The established framework of the **Industrial Emissions Directive (IED)** provides a mechanism for managing risks associated with emissions. The IED sets permitting conditions and emission limit values based on **Best Available Techniques (BAT/BREF)**, which provides certainty for manufacturers to align their voluntary emission reduction efforts with official EU standards. Similarly, End of Life measures are already provided for by legislations in Europe, to ensure emissions are minimised during waste-to-energy operations.

A full exemption, coupled with strong emission control under frameworks like the IED and end of Life regulatory measures, is the most coherent path forward. It respects the unique, low-hazard profile and criticality of fluoropolymers, simplifies regulatory burdens, and allows market surveillance resources to focus on products presenting a genuine unacceptable risk, rather than attempting to enforce technically challenging, component-specific derogations across global value chains.

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About Fluoropolymers Product Group (FPG):
The FPG is part of Plastics Europe, the industry association representing European polymer producers. It operates in accordance with the Plastics Europe governance rules, including Competition Compliance Rules. Plastics Europe covers the EU, plus UK, Norway, Turkey and Switzerland.

About Fluoropolymers:
Fluoropolymers are advanced materials that provide unmatched durability, chemical and thermal resistance, and stability in extreme environments. Their unique set of properties makes them essential in many industries, from healthcare and renewable energy to transportation, aerospace and semiconductors.