

## Perfluorooctanoic acid (PFOA) – PROPOSED VARIATION

[For incorporation in] Industrial Chemicals Environmental Management (Register) Instrument 2022

## Schedule 7 – Relevant industrial chemicals that are likely to cause serious or irreversible harm to the environment with no essential uses

Relevant industrial chemical
<p>Class name: Perfluorooctanoic acid (PFOA), including any of its branched isomers, its salts and any related compound that contains a linear or branched perfluoroheptyl (C<sub>7</sub>FH<sub>15</sub>C) group and which can degrade to linear or branched PFOA. Notwithstanding the above, the following are not PFOA-related compounds:</p> <ul style="list-style-type: none"> <li>(i) C<sub>8</sub>F<sub>17</sub>-X, where X = F, Cl, Br;</li> <li>(ii) fluoropolymers that are covered by CF<sub>3</sub> [CF<sub>2</sub>]<sub>n</sub>-R', where R'=any group, n &gt;16;</li> <li>(iii) perfluoroalkyl carboxylic acids and their derivatives with ≥ 8 perfluorinated carbons;</li> <li>(iv) perfluoroalkane sulfonic acids and perfluoro phosphonic acids and their derivatives with ≥ 9 perfluorinated carbons;</li> <li>(v) perfluorooctane sulfonic acid and its derivatives (PFOS), as listed in this register.</li> </ul>
Risk management measures including prohibitions and restrictions
(a) This entry comes into effect on 1 July 2025.
(b) The import, export and manufacture of the chemical (whether on its own or in mixtures or in articles) are prohibited except:
<ul style="list-style-type: none"> <li>(i) in circumstances where the chemical is present as unintentional trace contamination at the following levels (to be reviewed by the department by 1 July 2027): <ul style="list-style-type: none"> <li>(a) a level equal to or below 0.025 mg/kg for PFOA and its salts; or</li> <li>(b) a level equal to or below 1 mg/kg for any individual PFOA-related compound or a combination of PFOA-related compounds; or</li> <li>(c) a level equal to or below 0.8 mg/kg for PFOA and its salts present in fire-fighting foam for liquid fuel vapour suppression and liquid fuel fire (Class B fires) when already installed in systems, including both mobile and fixed systems; or</li> </ul> </li> <li>(ii) for research or laboratory purposes; or</li> <li>(iii) if a hazardous waste permit authorises the import or export of the chemical.</li> </ul>
(c) The use of the chemical (whether on its own or in mixtures or in articles), is prohibited except:
<ul style="list-style-type: none"> <li>(i) in circumstances where the chemical is present as unintentional trace contamination at the following levels (to be reviewed by the department by 1 July 2027): <ul style="list-style-type: none"> <li>(a) a level equal to or below 0.025 mg/kg for PFOA and its salts; or</li> <li>(b) a level equal to or below 1 mg/kg for any individual PFOA-related compound or a combination of PFOA-related compounds; or</li> <li>(c) a level equal to or below 0.8 mg/kg for PFOA and its salts present in fire-fighting foam for liquid fuel vapour suppression and liquid fuel fire (Class B fires) when already installed in systems, including both mobile and fixed systems; or</li> </ul> </li> <li>(ii) for research or laboratory purposes; or</li> <li>(iii) in circumstances in which the article is already in use on or before 1 July 2025.</li> </ul>
(d) Producers and holders of waste must undertake all reasonably practicable measures to avoid contamination of non-PFOA waste with this chemical and must not dilute PFOA waste to lower the PFOA concentration below relevant waste handling and disposal thresholds.
(e) Waste consisting of, containing or contaminated by the chemical at a concentration that is equal to, or greater than, 1 mg/kg for PFOA and its salts or 40 mg/kg for the sum of PFOA-related compounds must be either:
<ul style="list-style-type: none"> <li>(i) treated in such a way as to ensure that the chemical is destroyed or irreversibly transformed so that the remaining waste and environmental releases do not contain chemicals that exhibit Schedule 6 or Schedule 7 risk characteristics, or</li> <li>(ii) stored managed or disposed of in an environmentally sound manner as authorised under a law of the Commonwealth or a law of a State, where treatment in accordance with subparagraph (i) is not the environmentally preferable option.</li> </ul>
(f) Waste containing or contaminated by the chemical at a concentration of less than 1 mg/kg for PFOA and its salts or 40 mg/kg for the sum of PFOA-related compounds must be managed or disposed of in an environmentally sound manner as authorised under a law of the Commonwealth or a law of a State.
(g) Disposal of waste must not lead to recovery, recycling, reclamation or re-use of the chemical, subject to paragraph (h).

(h) In carrying out disposal, the chemical may be isolated from the waste, provided that the chemical is subsequently disposed of in accordance with paragraphs (e) and (f).

(i) If an activity in relation to the chemical, or an article containing the chemical, is not permitted under paragraph (b) or (c), a holder of a stockpile of the chemical must:

- (i) notify the relevant agency responsible for environmental protection of the nature and size of the stockpile; and
- (ii) manage that stockpile as waste in accordance with paragraphs (e) and (f); and
- (iii) comply with all relevant laws that apply in the relevant jurisdiction.

(j) The IChEMS Minimum Standards must be complied with.

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Terms defined in the Register instrument
<p><b>disposal</b> has the same meaning as in the <i>Hazardous Waste (Regulation of Exports and Imports) Act 1989</i>.</p> <p>Note: Other grammatical forms of “disposal” (such as “disposed of”) have a corresponding meaning (see section 18A of the <i>Acts Interpretation Act 1901</i>).</p> <p><b>environmental release</b> means any introduction of pollutants into the environment as a result of any human activity, whether deliberate or accidental, routine or nonroutine.</p> <p><b>hazardous waste export permit</b> means an export permit within the meaning of the <i>Hazardous Waste (Regulation of Exports and Imports) Act 1989</i>.</p> <p><b>hazardous waste import permit</b> means an import permit within the meaning of the <i>Hazardous Waste (Regulation of Exports and Imports) Act 1989</i>.</p> <p><b>IChEMS Minimum Standards</b> means the minimum standards agreed to by Commonwealth, State and Territory environmental regulators as published by the [Environment] Department and as existing from time to time.</p> <p><b>industrial use</b> has the same meaning as in the <i>Industrial Chemicals Act 2019</i>.</p> <p><b>relevant agency</b> includes:</p> <p>(a) a department, agency or authority of the Commonwealth; and</p> <p>(b) a State government body.</p> <p><b>Schedule 6 risk characteristics</b> has the same meaning as in the <a href="#">Industrial Chemicals Environmental Management (Register) Principles 2022</a>.</p> <p><b>Schedule 7 risk characteristics</b> has the same meaning as in the <a href="#">Industrial Chemicals Environmental Management (Register) Principles 2022</a>.</p> <p><b>stockpile</b> of a relevant industrial chemical means an accumulation of substances, mixtures or articles that contains, or consists of, the chemical.</p> <p><b>unintentional trace contamination</b> means circumstances where a chemical is present unintentionally and unavoidably below a set level at which the chemical cannot be meaningfully used.</p> <p><b>waste</b> has the same meaning as in the <i>Hazardous Waste (Regulation of Exports and Imports) Act 1989</i>.</p>

Terms defined in the <i>Industrial Chemicals Environmental Management (Register) Act 2021</i>
<p><b>end use</b> for an industrial chemical has the same meaning as in the <i>Industrial Chemicals Act</i>.</p> <p><b>Environment Department</b> means the Department administered by the Minister administering this Act.</p> <p><b>relevant industrial chemical</b> means:</p> <p>(a) a particular industrial chemical; or</p> <p>(b) a particular class of industrial chemicals.</p> <p><b>State</b> includes the Northern Territory and the Australian Capital Territory.</p>

Terms defined in the <i>Industrial Chemicals Act 2019</i>
<p><b>article</b> means an object that:</p> <p>(a) is produced for use for a particular purpose, being a purpose that requires that the object have a particular shape, surface or design; and</p> <p>(b) is formed to that shape, surface or design during production; and</p> <p>(c) undergoes no change of chemical composition when used for that purpose except as an intrinsic aspect of that use;</p> <p>but does not include an object of a kind prescribed by the rules for the purposes of this definition.</p> <p><b>end use</b> for an industrial chemical, means a purpose to which the industrial chemical can be applied.</p> <p><b>industrial use</b> means a use other than (or in addition to) one of the following uses:</p> <p>(a) use as an agricultural chemical product (within the meaning of the <i>Agvet Code</i>) or in the preparation of such a product;</p> <p>(b) use as a veterinary chemical product (within the meaning of the <i>Agvet Code</i>) or in the preparation of such a product;</p>

- (c) use as a substance or mixture of substances mentioned in paragraph 5(4)(a) of the Agvet Code (which deals with substances or mixtures of substances prepared by a pharmacist or veterinary surgeon) or in the preparation of such a substance or mixture of substances;
- (d) use as a therapeutic good (within the meaning of the *Therapeutic Goods Act 1989*) or in the preparation of such a good;
- (e) use as food intended for consumption by humans or in the preparation of such food;
- (f) use as feed intended for consumption by animals or in the preparation of such feed;
- (g) any use prescribed by the rules for the purposes of this paragraph.

**manufacture** an industrial chemical means do any of the following:

- (a) produce the industrial chemical in the course of a chemical reaction;
- (b) extract the industrial chemical from a natural environment, with or without chemical change;
- (c) extract the industrial chemical from a UVCB substance;
- (d) produce or extract the industrial chemical in circumstances prescribed by the rules for the purposes of this paragraph;

but does not include producing or extracting the industrial chemical as described in paragraphs (a), (b) or (c) in circumstances prescribed by the rules for the purposes of this definition.

**use**, for an industrial chemical, includes any of the following activities involving the industrial chemical:

- (a) processing;
- (b) formulating;
- (c) storing;
- (d) transporting;
- (e) filling into containers;
- (f) transferring from a container to another container;
- (g) handling;
- (h) mixing;
- (i) sampling and testing;
- (j) producing an article;
- (k) releasing into the environment (with or without prior treatment);
- (l) activities relating to an end use for the industrial chemical;
- (m) any other activity prescribed by the rules for the purposes of this paragraph;

but does not include an activity prescribed by the rules for the purposes of this definition.