

# Decabromodiphenyl ether and nonabromodiphenyl ether – DECISION FOR CONSULTATION

[For incorporation in] Industrial Chemicals Environmental Management Register

## Schedule 6 – Relevant industrial chemicals that are likely to cause serious or irreversible harm to the environment with essential uses

Relevant industrial chemical
<p>Chemical class name: Decabromodiphenyl ether and nonabromodiphenyl ether (all three congeners) (decaBDE and nonaBDE)</p> <p>CAS numbers: 1163-19-5 (decaBDE), 63936-56-1 (nonaBDE – unspecified congener(s)), 63387-28-0 (2,2',3,3',4,4',5,5',6-nonabromodiphenyl ether), 437701-79-6 (2,2',3,3',4,4',5,6,6'-nonabromodiphenyl ether), 437701-78-5 (2,2',3,3',4,5,5',6,6'-nonabromodiphenyl ether)</p>
Risk management measures including prohibitions and restrictions
(a) This entry comes into effect on 1 July 2025.
(b) The import, manufacture and use of the class of chemicals (whether on its own or in mixtures) are prohibited except:
<p>(i) in circumstances where the class of chemicals is present as unintentional trace contamination at the following levels (to be reviewed by the department by 1 July 2027):</p> <p>(a) sum of all nonaBDE congeners: equal to or below 10 mg/kg; and</p> <p>(b) decaBDE: equal to or below 10 mg/kg; or</p>
(ii) for research or laboratory purposes; or
(iii) if a hazardous waste import permit authorises the import of the class of chemicals; or
<p>(iv) for the purpose of the following essential end uses, when used in accordance with relevant risk management measures:</p> <p>(a) spare parts for aircraft that were manufactured prior to 1 January 2027 (until the end of the service life of the aircraft); or</p> <p>(b) aircraft (until 1 January 2027,); or</p> <p>(c) polyurethane foam for building insulation (until 1 January 2027); or</p> <p>(d) electric and electronic equipment (until 1 January 2027); or</p> <p>(e) spare parts for motor vehicles that were manufactured prior to 2019 (until 1 January 2036); or</p> <p>(f) textile products (other than clothing and toys) that require anti-flammable characteristics (until 1 January 2027).</p>
(c) The import, manufacture and use of an article containing the class of chemicals are prohibited except:
<p>(i) in circumstances where polybrominated diphenyl ethers (PBDEs) are present in the article as an unintentional trace contaminant at a level equal to or below 500 mg/kg as the sum of all tetra-, penta-, hexa-, hepta-, octa-, nona- and decaBDE congeners (to be reviewed by the department by 1 July 2027); or</p>
(ii) for research or laboratory purposes; or
(iii) if a hazardous waste import permit authorises the import of the article; or
(iv) in circumstances in which the article is already in use on or before 1 July 2025; or
<p>(v) for the purpose of the following essential end uses, when used in accordance with relevant risk management measures:</p> <p>(a) spare parts for aircraft that were manufactured prior to 1 January 2027 (until the end of the service life of the aircraft); or</p> <p>(b) aircraft (until 1 January 2027); or</p> <p>(c) polyurethane foam for building insulation (until 1 January 2027); or</p> <p>(d) electric and electronic equipment (until 1 January 2027); or</p> <p>(e) spare parts for motor vehicles that were manufactured prior to 2019 (until 1 January 2036); or</p> <p>(f) textile products (other than clothing and toys) that require anti-flammable characteristics (until 1 January 2027).</p>
(d) The export of the class of chemicals (whether on its own or in mixtures), or an article containing the class of chemicals, is prohibited except:
<p>(i) for the class of chemicals — in circumstances where the class of chemicals is present as unintentional trace contamination at the following levels (to be reviewed by the department by 1 July 2027):</p> <p>(a) sum of all nonaBDE congeners: equal to or below 10 mg/kg; and</p> <p>(b) decaBDE: equal to or below 10 mg/kg; or</p>
<p>(ii) for the article - in circumstances where PBDEs are present in the article as an unintentional trace contaminant at a level equal to or below 500 mg/kg as the sum of all tetra-, penta-, hexa-, hepta-, octa-, nona- and decaBDE congeners (to be reviewed by the department by 1 July 2027); or</p>
(iii) for research or laboratory purposes; or

(iv) if a hazardous waste export permit authorises the export of the class of chemicals or the article; or
<p>(v) for the purpose of the following essential end uses, when used in accordance with relevant risk management measures:</p> <p>(a) spare parts for aircraft that were manufactured prior to 1 January 2027 (until the end of the service life of the aircraft); or</p> <p>(b) aircraft (until 1 January 2027); or</p> <p>(c) polyurethane foam for building insulation (until 1 January 2027); or</p> <p>(d) electric and electronic equipment (until 1 January 2027); or</p> <p>(e) spare parts for motor vehicles that were manufactured prior to 2019 (until 1 January 2036); or</p> <p>(f) textile products (other than clothing and toys) that require anti-flammable characteristics (until 1 January 2027).</p>
(e) Producers and holders of waste must undertake all reasonably practicable measures to avoid contamination of waste not containing nonaBDE and decaBDE with nonaBDE and decaBDE and must not dilute nonaBDE and decaBDE waste with waste not containing nonaBDE and decaBDE to lower the waste concentration below relevant waste handling and disposal thresholds.
<p>(f) Waste consisting of, containing or contaminated with, PBDEs at a concentration that is equal to, or greater than, 500 mg/kg for the sum of tetra-, penta-, hexa-, hepta-, octa-, nona- and decaBDE congeners (to be reviewed by the department by 1 July 2027) must be either:</p> <p>(i) treated in such a way as to ensure that the class of chemicals 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</p> <p>(ii) 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.</p>
(g) Waste consisting of, containing or contaminated with PBDEs at a concentration that is less than, 500 mg/kg for the sum of tetra-, penta-, hexa-, hepta-, octa-, nona- and decaBDE congeners (to be reviewed by the department by 1 July 2027) 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.
(h) Disposal must not lead to recovery, recycling, reclamation or re-use of the class of chemicals on its own, subject to paragraph (i).
(i) In carrying out disposal, the class of chemicals may be isolated from the waste, provided that it is subsequently disposed of in accordance with paragraphs (f) and (g).
<p>(j) If an activity in relation to the class of chemicals, or an article containing the class of chemicals, is not permitted under paragraph (b), (c) or (d), a holder of a stockpile of the class of chemicals must:</p> <p>(i) notify the relevant agency responsible for environmental protection of the nature and size of the stockpile; and</p> <p>(ii) manage that stockpile as waste in accordance with paragraphs (f) and (g); and</p> <p>(iii) comply with all relevant laws that apply in the relevant jurisdiction.</p>
(k) The import, export, manufacture and use of the class of chemicals for the purposes listed under sub-section (b)(iv), c(v) and (d)(v) must adhere to a law of the Commonwealth or a law of the relevant State on the control of industrial chemicals as applicable.
(l) Introducers (importers and manufacturers) must determine and provide information on the concentration of the class of chemicals by weight, whether on its own, in a mixture, or in an article to the supply chain.
<p>(m) Introducers (importers and manufacturers) and users must keep the following information up-to-date and must produce this information if requested by their relevant agency:</p> <p>(i) information on the identity of the substances, the concentration by weight, and the products and articles they are used in; and</p> <p>(ii) a justification for the use; and</p> <p>(iii) details on the conditions of use and safe disposal.</p>
(n) Introducers (importers and manufacturers) must make the identity and quantity of the class of chemicals placed on the Australian market publicly available and accessible. This information must be updated every year.
(o) Programmes and mechanisms must be established and maintained by users, consistent with the latest methods, techniques and equipment and as considered appropriate by the relevant agency, for the regular provision of comparable monitoring data on the presence of the class of chemicals in the environment.
(p) Users, manufacturers and importers should participate in relevant codes of practice or product stewardship programs and hold documentation demonstrating participation which should be produced if requested by the relevant agency.
(q) The IChEMS Minimum Standards must be complied with.

## Decabromodiphenyl ether and nonabromodiphenyl ether – DECISION FOR CONSULTATION

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Terms defined in the Register instrument
<p>The following terms are to be defined in the Register:</p> <p><b>article</b> has the same meaning as in the <i>Industrial Chemicals Act 2019</i>.</p> <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>manufacture</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 class of chemicals.</p> <p><b>unintentional trace contamination</b> means circumstances where a chemical is present unintentionally and unavoidably below a set level at which the class of chemicals cannot be meaningfully used.</p> <p><b>use</b> has the same meaning as in the <i>Industrial Chemicals Act 2019</i>.</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>CAS number</b> for an industrial chemical has the same meaning as in the Industrial Chemicals Act</p> <p><b>end use</b> for an industrial chemical has the same meaning as in the Industrial Chemicals Act.</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>manufacture</b> an industrial chemical means do any of the following:</p>

<p>(a) produce the industrial chemical in the course of a chemical reaction;</p> <p>(b) extract the industrial chemical from a natural environment, with or without chemical change;</p> <p>(c) extract the industrial chemical from a UVCB substance;</p> <p>(d) produce or extract the industrial chemical in circumstances prescribed by the rules for the purposes of this paragraph;</p> <p>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.</p> <p><b>use</b>, for an industrial chemical, includes any of the following activities involving the industrial chemical:</p> <p>(a) processing;</p> <p>(b) formulating;</p> <p>(c) storing;</p> <p>(d) transporting;</p> <p>(e) filling into containers;</p> <p>(f) transferring from a container to another container;</p> <p>(g) handling;</p> <p>(h) mixing;</p> <p>(i) sampling and testing;</p> <p>(j) producing an article;</p> <p>(k) releasing into the environment (with or without prior treatment);</p> <p>(l) activities relating to an end use for the industrial chemical;</p> <p>(m) any other activity prescribed by the rules for the purposes of this paragraph;</p> <p>but does not include an activity prescribed by the rules for the purposes of this definition.</p>
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Terms defined in the <i>Hazardous Waste (Regulation of Exports and Imports) Act 1989</i>
<p><b>disposal</b> means an operation specified in Annex IV to the <a href="#">Basel Convention</a>.</p> <p><b>environmentally sound management</b>, in relation to hazardous waste, has the meaning given by section 4E:</p> <p>a reference in this Act to the <b>environmentally sound management</b> of hazardous waste is a reference to taking all practicable steps to ensure that the waste is managed in a manner that will protect human health, and the environment, against the adverse effects that may result from the waste.</p> <p><b>hazardous waste export permit</b> means a permit under section 17 (<i>Hazardous Waste (Regulation of Exports and Imports) Act 1989</i>) permitting the export of hazardous waste.</p> <p><b>hazardous waste import permit</b> means a permit under section 17 (<i>Hazardous Waste (Regulation of Exports and Imports) Act 1989</i>) permitting the import of hazardous waste.</p> <p><b>waste</b> means a substance or object that:</p> <p>(a) is proposed to be disposed of; or</p> <p>(b) is disposed of; or</p> <p>(c) is required by a law of the Commonwealth, a State or a Territory to be disposed of.</p>