

New Chemicals under the Stockholm Convention on Persistent Organic Pollutants: Report on Consultation

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**Environmental
Protection Authority**
Te Mana Rauhi Taiao

New Zealand Government

Contents

| | |
|---|-----------|
| Purpose of this report | 4 |
| Summary - Amendments to the HSNO Act | 4 |
| Background | 6 |
| Stockholm Convention | 6 |
| New Zealand's Obligations | 7 |
| Proposals | 7 |
| Consultation | 8 |
| Submitters | 8 |
| Summary of submissions | 8 |
| Consideration of the Listings | 11 |
| Dicofol | 11 |
| PFOA, its salts and PFOA-related compounds | 12 |
| Best international practices | 14 |
| Conclusions and Recommendations | 15 |
| Appendix 1: Consultation Questions | 17 |
| Dicofol | 17 |
| PFOA, its salts and PFOA-related compounds | 17 |
| Appendix 2: Stockholm Convention new decisions on the listings | 19 |

Purpose of this report

This report responds to a letter dated 24 June 2019 from the Minister for the Environment to the Chair of the Environmental Protection Authority (EPA), asking the EPA to consult on proposed amendments to Schedule 2A of the Hazardous Substances and New Organisms Act 1996 (HSNO Act). The amendments would add two new persistent organic pollutants (POPs) to the list in Schedule 2A.

This report summarises the outcome of the consultation undertaken by the EPA on the proposals to amend the HSNO Act, and includes:

1. analysis and comments on the submissions received
2. comments and recommendations on the amendment proposals
3. advice on the best international practices and standards relating to the management of POPs.

Summary - Amendments to the HSNO Act

New Zealand is a party to the Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention). The parties to the Convention meet every two years and may decide to list new POPs in the Convention.

In 2019, the parties decided to add two additional POPs to the Stockholm Convention, namely Dicofol and perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds. As part of New Zealand's obligations as a party to the Stockholm Convention, these two POPs must be incorporated into New Zealand's domestic law. This is achieved through an amendment to Schedule 2A of the HSNO Act, by Order in Council.

From 28 February 2020 to 30 March 2020, the EPA consulted on the proposed amendments to the HSNO Act to include the new POPs. Five submissions were received, which either supported or did not oppose the proposed changes.

Consultation undertaken September to December 2019 on the Fire Fighting Chemicals Group Standard has also been considered, as this feedback is highly relevant to the listing of PFOA, its salts and related PFOA compounds. Twenty submissions were received in this earlier consultation, and these included discussion of the use of fire-fighting foams containing PFOA related compounds.

Taking into consideration all the feedback received in both the 2019 and 2020 consultations, the EPA recommends that:

1. Schedule 2A of the HSNO Act be amended to add:
 - 1.1. Dicofol. The listing should include no exemptions.
 - 1.2. PFOA, its salts and PFOA-related compounds. The listing should include the following exemptions:
 - a. An articles in use exemption to allow the continued use of existing articles that may contain these substances that were already in use in New Zealand on 3 December 2020.

- b. Two specific exemptions allowed in the Stockholm Convention listing decision SC-9/12:
 - (i) Photographic coatings applied to films. This exemption would expire in five years on 3 December 2025.
 - (ii) Fire-fighting foam for liquid fuel vapour suppression and liquid fuel fires (Class B fires) in installed systems, including both mobile and fixed systems (in accordance with paragraph 2 of part X of Annex A) – see Appendix 2, decision SC-9/12. This exemption would expire at the end of 2025.
- 2. New Zealand, through the Ministry for the Environment:
 - 2.1. Notifies the Stockholm Convention Secretariat of its use of the articles in use provision for articles already in use on 3 December 2020 that contain PFOA, its salts and PFOA-related compounds.
 - 2.2. Registers for the specific use exemptions for photographic coatings applied to films, and for fire-fighting foam for liquid fuel vapour suppression and liquid fuel fires (Class B fires) in installed systems, including both mobile and fixed systems (in accordance with paragraph 2 of part X of Annex A).

Background

Stockholm Convention

What the Stockholm Convention does

The Stockholm Convention is a multilateral environmental agreement limiting the production and use of POPs, which are highly toxic chemicals that persist in the environment, build up in human and animal tissue, and are passed from species to species through the food chain.

The Stockholm Convention has three annexes in which chemicals are listed. Annex A lists POPs that are to be eliminated. Annex B lists POPs that are to be restricted to uses that are specified in that Annex. Annex C lists POPs that are produced and released as unintentional by-products of specific processes.

Listings in Annexes A and B can also provide for specific exemptions which are listed in the Annexes. The Stockholm Convention maintains a register of the countries making use of these specific exemptions. Parties need to register for each exemption that they wish to use. Specific exemptions are available for a limited time.

Parties to the Stockholm Convention are also required to manage stockpiles and wastes containing chemicals listed in these Annexes (including when POPs must be destroyed), identify contaminated sites, and remediate these in an environmentally sound manner.

The Stockholm Convention also allows a party to notify the Secretariat that it continues to have articles containing listed POPs within its borders. This is known as an “articles in use” notification and is a means to deal with legacy issues. It relates to articles containing POPs that were manufactured or already in use before the relevant obligations came into force. The articles in use notification covers the existing articles in use for the time they remain in use. It does not extend to enabling reuse or recycling of the article. At the end of life, the article must be treated as waste containing POP, and should not be re-used or recycled. Notification does not cover new uses or articles produced or imported after the listing comes into effect.

Listing new chemicals

Every two years, parties to the Stockholm Convention meet to discuss its ongoing implementation, and can agree that additional POPs will be listed. Prior to listing, any additional POPs need to go through a three-stage assessment process by the Persistent Organic Pollutants Review Committee (POPs Review Committee), which is the Convention’s scientific review committee. New Zealand’s representative currently chairs this committee. Once agreed by the Conference of the Parties, the new POPs are added to one or more of the annexes to the Stockholm Convention.

In 2019, Parties to the Stockholm Convention made two new listings, namely Dicofol and perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds, to Annex A. Specific exemptions were provided in the case of the PFOA listing. The listing decisions are given in Appendix 2 of this document.

New Zealand's Obligations

Obligations of a party to the Stockholm Convention

When a POP is listed in the annexes of the Stockholm Convention, parties have obligations to impose prohibitions or restrictions on those chemicals. If New Zealand, as a party, decides not to be bound by a new listing, it must formally notify the UN Treaty depository of non-acceptance of the chemical within one year of the UN Treaty depository giving notice of the listing. For the 2019 new listings, any such notification needs to be made before 3 December 2020.

Obligations under the Convention extend to both the pure POP chemicals, and products or articles containing these, other than as unintentional trace contaminants. Therefore, for the current use of existing articles to continue, the existing use needs to be reflected in our listings under the HSNO Act and notified to the Convention Secretariat.

Implementing the Conventions under the HSNO Act

New Zealand fulfils its principal obligations under the Stockholm Convention through the HSNO Act.

The HSNO Act prohibits any POP listed in Schedule 2A, or a product containing a POP, from being imported into, manufactured, or used in New Zealand (subject to some very limited exceptions). Schedule 2A of the HSNO Act can be amended by an Order in Council as new chemicals are added to the Stockholm Convention. At present, Schedule 2A lists 27 POPs.

The full text of the Stockholm Convention is given in Schedule 1AA of the HSNO Act and this can also be amended by an Order in Council, without consultation.

Listed POPs, including POPs wastes and unused stocks of POPs, are subject to rules relating to collection, storage, and disposal that are specified in the Hazardous Substances (Storage and Disposal of Persistent Organic Pollutants) Notice 2004. However, the use of listed POPs as laboratory analytical standards, or in research and development in a laboratory, is permitted.

Proposals

The proposals consulted on included the addition of the new POPs, Dicofol and perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds, to Schedule 2A of the HSNO Act. It was also proposed that existing articles in use that contain PFOA, its salts and PFOA-related compounds could continue to be used (for a fixed period of time) but could not be replaced or recycled. The consultation also sought feedback regarding whether New Zealand should register for any of the specific use exemptions allowed under the Convention listing of PFOA, its salts and PFOA-related compounds.

Consultation

At the request of the Minister for the Environment, the EPA prepared a consultation document, and consulted on the proposed amendments to Schedule 2A of the HSNO Act, between 28 February 2020 and 30 March 2020.

The consultation document and submission form were posted on the EPA's website. Notice of the consultation was included in the EPA's Hazardous Substances Update for stakeholders, and selected stakeholders were also contacted directly by email. In addition, the New Zealand Customs Service's weekly e-newsletter issue number 549 carried information about the consultation. The proposal was also notified to the WTO and CPTTP.

The Questions asked in the consultation are provided in Appendix 1.

Five submissions were received, which either supported or did not oppose the proposed changes. As well, the recent 2019 consultation on the Fire Fighting Chemicals Group Standard provided feedback that is relevant to the listing of PFOA, its salts and PFOA-related compounds, and this has been taken into consideration.

A brief description of the key issues identified in the submissions and EPA's comments on them is provided below.

Submitters

The following 5 submitters provided feedback:

| Name | Organisation |
|--------------------------------------|--|
| Emily Louise McDowell | Individual |
| Rikki Stancich | Individual |
| Melissa Wermanhoven | Individual |
| Boyne Drummond | POPS Environmental Consultants Ltd |
| Bjoern-Markus Sude and Eddy Michiels | I&P Europe – Imaging and Printing Association e.V. |

Summary of submissions

The submissions either supported, or did not object to, the listing of the new POPs in Schedule 2A of the HSNO Act.

The three individual submissions all supported the listings. Two of these three thought that no specific use exemptions should be sought, and one stated that use exemptions should be considered on a case by case basis. One supported providing for existing articles in use to remain in use, one had no view of this, and the other stated they were unsure.

The submission from POPS Environmental Consultants Ltd discussed the management of the POPs as wastes, and noted the activity of an associated firm, Tredi SA, a French hazardous waste disposal company that specializes in the management of Stockholm Convention POPs chemicals. The

submission stated that Tredi SA, with its New Zealand partners Waste Management NZ and Chemwaste, currently provides safe disposal services for PFAS chemicals and many Stockholm Convention listed POPs chemicals from New Zealand. It also stated that Tredi SA confirms that it has the capacity to safely dispose of Dicofof together with other POPs. The submission supported New Zealand making use of the exemption available for fire-fighting foams containing (PFOA), its salts and PFOA-related compounds.

The submission from I&P Europe – Imaging and Printing Association e.V was supportive of the listing of the new POPs. It discussed how the imaging and printing industry had eliminated 98 percent of the use of PFOA related chemicals since 2000. It noted that some use of these chemicals in their industry is still essential, and noted the specific exemption for this use in the Stockholm Convention decision. It supported New Zealand making use of the specific exemption for photographic coatings applied to films. It noted that the European Union is making use of this specific use exemption.

Consultation on amendments to the Fire Fighting Chemicals Group Standard 2017

From September to December 2019, the EPA consulted on amendments to the Fire Fighting Chemicals Group Standard 2017. This proposed that all PFAS containing fire-fighting foams be phased out, under the same conditions and to the same timeline as provided in the Stockholm Convention listing for PFOA-based fire-fighting foams. Because of the subject overlap between the consultation on the group standard and the proposed amendments under HSNO 2A, the twenty submissions received, as below, have been taken into account.

Submitters to the Fire Fighting Chemicals Group Standard

| Name | Organisation | Organisation type |
|-------------------------------|---|----------------------|
| Hansika Abeygunarathna | AECOM | Business company |
| Richard Paul (Dick) Gillespie | Fire Engineering Solutions | Business company |
| Aaron Thorburn | Refining NZ | Business company |
| | Fire Protection Association (New Zealand) Incorporated | Industry association |
| David Hipkins | Tyco New Zealand Ltd T/A Wormald | Business company |
| Rob Fenton | New Zealand Fire Equipment Manufacturers Association Incorporated | Industry association |
| Ken Clarke | Responsible Care NZ | Industry association |
| Thomas Cortina | Fire Fighting Foam Coalition Inc. | Industry association |
| Connor Higgs | Firewatch Canterbury Ltd | Business company |
| Marty Forsman | Air New Zealand | Business company |

| | | |
|--------------------|--|----------------------------|
| Jodi Caughley | Engineering New Zealand | Business company |
| Bob Brady | Methanex NZ Ltd | Business company |
| Amanda Lambert | Beach Energy Resources NZ Limited | Business company |
| Kevin Lehrke | Port Taranaki Limited | Business company |
| Mike Willson | Willson Consulting | Consultant |
| Kevin Ward | New Zealand Airports Association | Industry association |
| David le Marquand | 4Sight Consulting Limited for Z Energy Limited, BP Oil New Zealand Limited and Mobil Oil New Zealand Limited | Consultant |
| Rod Rutledge | Caltex Australia Petroleum Pty Ltd | Business company |
| Wayne Andrews-Paul | New Zealand Defence Force | Public sector organisation |
| Victor Lenting | Fire and Emergency New Zealand | Public sector organisation |

The EPA is currently considering wider issues raised by the submissions made on this consultation. Some submissions noted that the submitter (for example, Port of Taranaki) still had systems with PFOA-related foam compounds in them. Others, such as the New Zealand Airports Association, stated they had transitioned away from using PFOA, its salts and PFOA-related compounds at airports. The consultation indicated that the replacement of fire-fighting foams containing PFOA-related compounds will take some time to achieve. Further evidence that suggests some time will be needed to completely phase out PFOA related foams was the EPA's investigation carried out into use of PFOS fire-fighting foams in 2018. A number of the sites investigated had PFOA related fire-fighting foams (C8 foams).

A number of submissions (for example, Port Taranaki, Fire and Emergency New Zealand, New Zealand Defence Force, Fire Protection Association) also provided comment on issues relating to cleaning equipment that formerly contained the foams, and the disposal of foam and related wastes, and the complexity, costs, and time associated with these. These issues will be addressed in the amended Group Standard, and in a revised Storage and Disposal of Persistent Organic Pollutants Notice.

Further issues raised related to rules concerning C6 fire-fighting foams. These are not PFOA-related compounds but some submitters (e.g. AECOM, Fire Fighting Foam Coalition, New Zealand Defence Force, Air New Zealand, Tyco New Zealand Ltd) commented on the need for these, especially as PFOA-related foams are phased out. This issue is being considered as part of the Group Standard revision, and is out of scope here.

Consideration of the Listings

Dicofol

Current New Zealand status of Dicofol

Dicofol is an organochlorine pesticide, and similar to DDT. There are two HSNO approvals for dicofol, CAS No. 115-32-2.

- Approval HSR002840 - It can only be used for laboratory research and development, or as an ingredient or component in the manufacture of another substance or product.
- Approval HSR000752 - Is for a “wettable powder containing 350 g/kg dicofol”. This is subject to a control (rule) that this substance must not be applied in or on water.

No product containing dicofol is registered on the Agricultural Compounds and Veterinary Medicines Register under the Agricultural Compounds and Veterinary Medicines Act 1997 (ACVM Act).

Exemptions relevant to New Zealand

There are no specific use exemptions available with this listing that would allow continued import or production. There is no evidence to suggest that any product is being used for any other use or that dicofol is being imported for research and development purposes.

The “articles in use” exemption is not relevant to dicofol, as it is a chemical product not used in manufactured articles.

Costs and benefits of listing Dicofol

Possible benefits

The benefits to New Zealand in listing Dicofol include:

1. Including Dicofol in the list of POPs will make it clear that Dicofol is prohibited in New Zealand and this will re-enforce action to end its use, and hence make a small contribution to reducing potential exposure to it in New Zealand and the South Pacific region.
2. Preventing the use of Dicofol will also ensure that there will be no or only negligible amounts of Dicofol in our primary products exports.
3. Eliminating Dicofol world-wide provides benefits for the environment.
4. New Zealand will continue to comply with international obligations and best practices.

Possible costs

The costs to New Zealand of adopting the listing of Dicofol in the Stockholm Convention are thought to be negligible because:

1. Dicofol is a pesticide and no pesticide product containing Dicofol is registered for use in New Zealand under the ACVM Act. It was not used in other products.
2. The supply of Dicofol will decline globally as other countries eliminate it and implement their obligations under the Stockholm Convention.

PFOA, its salts and PFOA-related compounds

Current status In New Zealand

The HSNO Act regulates the use of PFOA, its salts and PFOA-related compounds. There are no approvals under Part 5 of the HSNO Act for any of the chemicals listed in this proposal. However, a number of them are listed on the EPA's NZ Inventory of Chemicals (NZIoC) and so they may be imported as component chemicals in products under an appropriate group standard. There is no information available on any current manufacture, import, export, or use, of any of the chemicals other than as components of some fire-fighting foams.

The chemicals listed on the NZIoC include:

- Perfluorooctanoic acid (PFOA), CAS No. 335-67-1
- PFOA-ammonium salt, CAS No. 3825-26-1
- PFOA-related compounds with the CAS numbers: 678-39-7, 27905-45-9, 2043-53-0, 2043-54-1, 30046-31-2, 65510-55-6, 865-86-1, 78560-44-8, 39239-77-5, 60699-51-6, 17741-60-5, 68412-69-1, 70969-47-0, 115592-83-1, 71608-61-2, 148240-85-1, 148240-87-3, 148240-89-5.

The Fire Fighting Chemicals Group Standard 2017 issued under the HSNO Act (originally issued in 2006), states that perfluorooctanoic acid (PFOA) (but not its salts or PFOA-related compounds) is excluded from the group standard. This means that PFOA itself was not approved for use in fire-fighting foams from 2006, but other PFOA-related compounds were able to be used.

Based on information from the 2019 consultation on proposed amendments to the Fire Fighting Chemicals Group Standard, we consider that New Zealand should use the specific exemption for fire-fighting foam for liquid fuel vapour suppression and liquid fuel fires (Class B fires) in installed systems, including both mobile and fixed systems. This exemption will give additional time for the transition away from PFOA-related compound foams that was suggested in the discussion document for that consultation, and supported by submitters on the proposed amendments to the Group Standard.

Possible exemptions - existing articles in use

An articles in use exemption is allowed for this listing. We are confident that there are some existing manufactured articles containing PFOA and PFOA-related compounds that continue to be used. Examples could include coated textiles and some medical devices that contain fluoropolymers.

PFOA, its salts and PFOA-related compounds have been used for decades in a variety of consumer and other products across many sectors worldwide. Steps to phase out PFOA and related substances have been widely implemented overseas by governments and by industry. The listing of PFOA and PFOA-related compounds in the Stockholm Convention will further reduce to virtually zero the number of newly manufactured products that contain this POP.

Possible exemptions for specific uses.

The prohibition under the Stockholm Convention decision also allows countries to seek exemptions for specific uses. Under the decision, possible use specific exemptions are:

- Photolithography or etch processes in semiconductor manufacturing
- Photographic coatings applied to films
- Textiles for oil- and water-repellency for the protection of workers from dangerous liquids that comprise risks to their health and safety

- Invasive and implantable medical devices
- Fire-fighting foam for liquid fuel vapour suppression and liquid fuel fires (Class B fires) in installed systems, including both mobile and fixed systems (in accordance with paragraph 2 of part X of Annex A)
- Use of perfluorooctyl iodide for the production of perfluorooctyl bromide for the purpose of producing pharmaceutical products
- Manufacture of polytetrafluoroethylene (PTFE) and polyvinylidene fluoride (PVDF) for the production of:
 - High-performance, corrosion-resistant gas filter membranes, water filter membranes and membranes for medical textiles
 - Industrial waste heat exchanger equipment
 - Industrial sealants capable of preventing leakage of volatile organic compounds and PM2.5 particulates
- Manufacture of polyfluoroethylene propylene (FEP) for the production of high-voltage electrical wire and cables for power transmission
- Manufacture of fluoroelastomers for the production of O-rings, v-belts and plastic accessories for car interiors.

Exemptions relevant to New Zealand

Existing articles in use

We consider that New Zealand should make use of the articles in use exemption. This would be generic and cover manufactured articles currently in use.

Specific exemption – Photographic coatings applied to films

The submission from I&P Europe – Imaging and Printing Association e.V supports New Zealand using the specific exemption for Photographic coatings applied to films.

This exemption would end in five years from 3 December 2020.

Specific exemption – fire-fighting foams

Based on information from the 2019 consultation on the Fire Fighting Chemicals Group Standard and the EPA's 2018 investigation of PFOS fire foams, we consider that New Zealand should use the specific exemption for fire-fighting foam for liquid fuel vapour suppression and liquid fuel fires (Class B fires) in installed systems, including both mobile and fixed systems. This exemption will give additional time for the transition away from PFOA-related compound foams requested by submitters to the Group Standard.

This would mean that fire-fighting foams containing PFOA-related compounds must not be used:

- for training, from the date of acceptance of the listing (3 December 2020)
- for testing unless all releases are contained, from the date of acceptance of the listing (3 December 2020)
- at sites where all releases cannot be contained, after the end of 2022 if possible, but no later than the end of 2025
- for any other uses after the end of 2025.

Other exemptions

We are not aware of any use of PFOA, its salts and PFOA-related compounds in the other areas where specific exemptions are available, and the submissions received as part of the consultation did not provide any further information in these areas.

New Zealand does not produce any perfluorooctyl iodide for the production of perfluorooctyl bromide, or manufacture any polytetrafluoroethylene (PTFE), polyvinylidene fluoride (PVDF), polyfluoroethylene propylene (FEP), or fluoroelastomers, so these exemptions are not applicable to New Zealand. Alternatives are available for these and other uses. Note that existing stocks of protective equipment containing textiles for oil and water-repellency can continue to be used under the articles in use exemption.

Therefore, no other exemptions are recommended.

Costs and benefits of listing PFOA, its salts and PFOA-related compounds

Possible benefits

The benefits to New Zealand in listing PFOA, its salts and PFOA-related compounds include:

1. Reducing use to a minimum and, in time, preventing the use of PFOA, its salts and PFOA-related compounds in New Zealand, will reduce the exposure of New Zealanders to these chemicals.
2. Reducing use to a minimum and, in time, preventing all use of PFOA, its salts and PFOA-related compounds, will also ensure that there will be no or only negligible amounts of it in our primary products exports.
3. Eliminating PFOA, its salts and PFOA-related compounds provides benefits for the environment.
4. New Zealand will continue to comply with international obligations and best practices.

Possible costs

The costs to New Zealand of adopting the listing of PFOA, its salts and PFOA-related compounds in the Stockholm Convention are thought to be low because:

1. In relation to the existing articles in use containing PFOA, its salts and PFOA-related compounds, an exemption is available for their continued use. For essential ongoing uses for which alternatives are not technically feasible or available, specific exemptions also cover use of existing PFOA related compounds in existing fire-fighting systems and, in the short term, for essential use in photographic coatings on films.
2. The supply of products containing PFOA, its salts and PFOA-related compounds will decline as other countries eliminate the use of it and implement their obligations under the Stockholm Convention.
3. The cost of switching to alternatives in new products will not likely be significant. Prior to listing, the POPs Review Committee explored alternatives to these POPs and found that these are becoming available at reasonable cost.

Best international practices

The Stockholm Convention obligations are the internationally accepted best international practice for managing POPs.

Prior to listing of new POPs, one or more parties submits a proposal for listing with supporting information to the Stockholm Convention Secretariat. The proposal is then subject to evaluations by the Stockholm Convention's POPs Review Committee. The POPs Review Committee examines the proposal and determines whether it meets criteria relating to the chemical's potential to harm, its persistence and potential for bioaccumulation. It also examines the availability of alternatives, and the best international practices for managing the specific POPs, including socio-economic considerations. Once the POPs Review Committee has recommended listing, the Conference of the Parties discusses the recommendation and makes a decision on the listing.

The POPs Review Committee concluded that Dicofol and perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds are likely, as a result of their long-range environmental transport, to lead to significant adverse human health and environmental effects, and recommended the listing of those POPs under the Stockholm Convention.

An example of offshore acceptance of the new POPs is the European Union (EU) draft legislation (C(2020) 1973 final¹) that is to come into effect on 4 July 2020 in the EU. The EU already has a restriction under their REACH chemical regulatory framework on PFOA and PFOA-related compounds. The new legislation replaces this, and is restrictive, including in respect to firefighting foams. The new EU legislation makes use of available exemptions and the articles in use exemption.

Trade-in products containing POPs

The listing of POPs in the Stockholm Convention places obligations on parties to prohibit the export and import of these POPs and of products containing them in addition to the restrictions on their production and use. This means that when New Zealand prohibits the import of POPs and products containing POPs into New Zealand, there are matching export prohibitions applied by other parties to the Stockholm Convention for the same chemicals and products. Listed POPs and related products can only be exported and imported between countries that have both registered for any specific use exemptions concerning those POPs.

The effect of other countries' acceptance of the Stockholm Convention listing of these POPs, is that these countries will no longer be producing or using the POPs. With the phase-out by other countries of POPs and chemicals containing the POPs, they will gradually no longer be available for import into New Zealand.

International Use of Articles in Use Notifications

The proposal for an article in use notification is in line with notifications for continued use of existing articles that we expect other countries to make. Notifications for articles in use have been made by some parties, including New Zealand, for earlier listings that covered earlier POPs used as fire retardants, timber preservatives, and fire-fighting foams.

Conclusions and Recommendations

The EPA considers there will be net benefit to New Zealand in listing the new POPs, and in New Zealand appropriately notifying articles in use and registering for particular specific use exemptions.

¹ Available at

https://ec.europa.eu/transparency/regdoc/index.cfm?fuseaction=list&coteld=3&documentType=COMMISSION_DELEGATED_REGULATION&version=ALL

Such an approach is in line with international best practices and is supported by submitters.

The EPA recommends that

1. Schedule 2A of the HSNO Act be amended to add:
 - 1.1. Dicofol. This listing should include no exemptions.
 - 1.2. PFOA, its salts and PFOA-related compounds. The listing should include the following exemptions:
 - a. An articles in use exemption to allow the continued use of existing articles that may contain these substances that were already in use in New Zealand on 3 December 2020.
 - b. Two specific exemptions allowed in the Stockholm Convention listing decision SC-9/12:
 - (i) Photographic coatings applied to films. This exemption would expire in five years on 3 December 2025.
 - (ii) Fire-fighting foam for liquid fuel vapour suppression and liquid fuel fires (Class B fires) in installed systems, including both mobile and fixed systems (in accordance with paragraph 2 of part X of Annex A) – see Appendix 2, decision SC-9/12. This exemption would expire at the end of 2025.
2. New Zealand, through the Ministry for the Environment:
 - 2.1. Notifies the Stockholm Convention Secretariat of its use of the articles in use provision for existing articles already in use on 3 December 2020 that contain PFOA, its salts and PFOA-related compounds
 - 2.2. Registers for the specific use exemptions for photographic coatings applied to films and for fire-fighting foam for liquid fuel vapour suppression and liquid fuel fires (Class B fires) in installed systems, including both mobile and fixed systems (in accordance with paragraph 2 of part X of Annex A).

Appendix 1: Consultation Questions

Dicofol

1. Do you agree that dicofol be listed in Schedule 2A of the HSNO Act?
2. Do you have any information regarding dicofol on the following:
 - current use in New Zealand
 - stockpiles, as chemicals or products
 - waste stocks containing dicofol
 - sites contaminated by dicofol
 - products being used which may contain dicofol
 - imports of, or products/articles containing, dicofol
 - exports of, or products/articles containing, dicofol?
3. If so, please provide details.

PFOA, its salts and PFOA-related compounds

4. Do you agree that PFOA, its salts and PFOA-related compounds be listed in Schedule 2A of the HSNO Act?
5. Do you have any information regarding PFOA, its salts and PFOA-related compounds on the following:
 - current use in New Zealand
 - stockpiles, as chemicals or products
 - waste stocks containing PFOA, its salts and PFOA-related compounds
 - sites contaminated by PFOA, its salts and PFOA-related compounds
 - products being used which may contain PFOA, its salts and PFOA-related compounds
 - imports of, or products/articles containing, PFOA, its salts and PFOA-related compounds
 - exports of, or products/articles containing, PFOA, its salts and PFOA-related compounds?
6. If so, please provide details.
7. Do you have any information on any articles in use (so these may continue to be used in New Zealand) that contain PFOA, its salts and PFOA-related compounds?
8. If so, please provide details.
9. Do you agree that New Zealand should make a notification to the Stockholm Convention Secretariat of these articles in use?
10. Do you agree that New Zealand should register for the specific exemption for fire-fighting foam, for liquid fuel vapour suppression and liquid fuel fires (Class B fires) in installed systems, including both mobile and fixed systems?

11. If so, do you think it would be possible for uncontained uses of fire-fighting foams to cease by the end of 2022?
12. Should New Zealand register for any of the other specific use exemptions available for products that contain PFOA, its salts and PFOA-related compounds?
13. If so, please provide details, including justification for the exemption and consideration of any alternatives (why those alternatives cannot be used).

Appendix 2: Stockholm Convention new decisions on the listings

SC-9/11: Listing of dicofol

The Conference of the Parties,

Having considered the risk profile and the risk management evaluation for dicofol as transmitted by the Persistent Organic Pollutants Review Committee,²

Taking note of the recommendation by the Persistent Organic Pollutants Review Committee that dicofol be listed in Annex A to the Convention without specific exemptions,³

Decides to amend part I of Annex A to the Stockholm Convention on Persistent Organic Pollutants to list dicofol without specific exemptions by inserting the following row:

| Chemical | Activity | Specific exemption |
|--------------------|------------|--------------------|
| Dicofol | Production | None |
| CAS No: 115-32-2 | Use | None |
| CAS No: 10606-46-9 | | |

SC-9/12:

Listing of perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds

The Conference of the Parties,

Having considered the risk profile, the risk management evaluation and the addendum to the risk management evaluation for perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds as transmitted by the Persistent Organic Pollutants Review Committee,⁴

Taking note of the recommendation by the Persistent Organic Pollutants Review Committee that perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds be listed in Annex A to the Stockholm Convention on Persistent Organic Pollutants with specific exemptions,⁵

1. **Decides** to amend part I of Annex A to the Stockholm Convention on Persistent Organic Pollutants to list therein perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds, with specific exemptions for the production and use of perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds, by inserting the following rows:

² UNEP/POPS/POPRC.12/11/Add.1; UNEP/POPS/POPRC.13/7/Add.1.

³ UNEP/POPS/COP.9/13.

⁴ UNEP/POPS/POPRC.12/11/Add.2; UNEP/POPS/POPRC.13/7/Add.2; UNEP/POPS/POPRC.14/6/Add.2.

⁵ UNEP/POPS/COP.9/14.

| <i>Chemical</i> | <i>Activity</i> | <i>Specific exemption</i> |
|--|-----------------|---|
| Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds | Production | <ul style="list-style-type: none"> • Fire-fighting foam: None • For other production, as allowed for the Parties listed in the Register in accordance with the provisions of part X of this Annex |
| <p>“Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds” means the following:</p> <p>(i) Perfluorooctanoic acid (PFOA; CAS No: 335-67-1), including any of its branched isomers;</p> <p>(ii) Its salts;</p> <p>(iii) PFOA-related compounds which, for the purposes of the Convention, are any substances that degrade to PFOA, including any substances (including salts and polymers) having a linear or branched perfluoroheptyl group with the moiety (C₇F₁₅)C as one of the structural elements;</p> <p>The following compounds are not included as PFOA-related compounds:</p> <p>(i) C₈F₁₇-X, where X= F, Cl, Br;</p> <p>(ii) Fluoropolymers that are covered by CF₃[CF₂]_n-R', where R'=any group, n>16;</p> <p>(iii) Perfluoroalkyl carboxylic and phosphonic acids (including their salts, esters, halides and anhydrides) with ≥8 perfluorinated carbons;</p> <p>(iv) Perfluoroalkane sulfonic acids (including their salts, esters, halides and anhydrides) with ≥9 perfluorinated carbons;</p> <p>(v) Perfluorooctane sulfonic acid (PFOS), its salts and perfluorooctane sulfonyl fluoride (PFOSF), as listed in Annex B to the Convention.</p> | Use | <p>In accordance with the provisions of part X of this Annex:</p> <ul style="list-style-type: none"> • Photolithography or etch processes in semiconductor manufacturing • Photographic coatings applied to films • Textiles for oil- and water-repellency for the protection of workers from dangerous liquids that comprise risks to their health and safety • Invasive and implantable medical devices • Fire-fighting foam for liquid fuel vapour suppression and liquid fuel fires (Class B fires) in installed systems, including both mobile and fixed systems, in accordance with paragraph 2 of part X of this Annex • Use of perfluorooctyl iodide for the production of perfluorooctyl bromide for the purpose of producing pharmaceutical products, in accordance with the provisions of paragraph 3 of part X of this Annex • Manufacture of polytetrafluoroethylene (PTFE) and polyvinylidene fluoride (PVDF) for the production of: <ul style="list-style-type: none"> ○ High-performance, corrosion-resistant gas filter membranes, water filter membranes and membranes for medical textiles ○ Industrial waste heat exchanger equipment ○ Industrial sealants capable of preventing leakage of volatile organic compounds and PM2.5 particulates • Manufacture of polyfluoroethylene propylene (FEP) for the production of high-voltage electrical wire and cables for power transmission • Manufacture of fluoroelastomers for the production of O-rings, v-belts and plastic accessories for car interiors |

2. **Also decides** to insert a new part X in Annex A to the Stockholm Convention on Persistent Organic Pollutants, as follows:

Part X

Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds

1. The production and use of perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds shall be eliminated except for Parties that have notified the Secretariat of their intention to produce and/or use them in accordance with Article 4 of the Convention.
2. Each Party that has registered for a specific exemption pursuant to Article 4 for the use of PFOA, its salts and PFOA-related compounds for fire-fighting foam shall:
 - (a) Notwithstanding paragraph 2 of Article 3, ensure that fire-fighting foam that contains or may contain PFOA, its salts and PFOA-related compounds shall not be exported or imported except for the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6;
 - (b) Not use fire-fighting foam that contains or may contain PFOA, its salts and PFOA-related compounds for training;
 - (c) Not use fire-fighting foam that contains or may contain PFOA, its salts and PFOA-related compounds for testing unless all releases are contained;
 - (d) By the end of 2022, if it has the capacity to do so, but no later than 2025, restrict uses of fire-fighting foam that contains or may contain PFOA, its salts and PFOA-related compounds to sites where all releases can be contained;
 - (e) Make determined efforts designed to lead to the environmentally sound management of fire-fighting foam stockpiles and wastes that contain or may contain PFOA, its salts and PFOA-related compounds, in accordance with paragraph 1 of Article 6, as soon as possible;
3. With regard to the specific exemption for the use of perfluorooctyl iodide for the production of perfluorooctyl bromide for the purpose of producing pharmaceutical products, at its thirteenth ordinary meeting and at every second ordinary meeting thereafter, the Conference of the Parties shall review the continued need for this specific exemption. This specific exemption shall in any case expire at the latest in 2036.

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