



Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2020

Patsy Reddy, Governor-General

Order in Council

At Wellington this 23rd day of November 2020

Present:

Her Excellency the Governor-General in Council

This order is made under sections 140A(1) and 140B(a) of the Hazardous Substances and New Organisms Act 1996—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for the Environment made after having complied with section 141 of that Act (in relation to the amendments to Schedule 2A of that Act).

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Order

1 Title

This order is the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2020.

2 Commencement

This order comes into force on 3 December 2020.

3 Amendments to Hazardous Substances and New Organisms Act 1996

Clauses 4 and 5 amend the Hazardous Substances and New Organisms Act 1996.

4 Schedule 1AA amended

- (1) In Schedule 1AA, Annex A, Part I, table, insert in their appropriate alphabetical order:

Chemical	Activity	Specific exemption
Dicofol	Production	None
CAS No. 115-32-2	Use	None
CAS No. 10606-46-9		
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
“Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds” means the following:	Use	In accordance with the provisions of Part X of this Annex:
(i) Perfluorooctanoic acid (PFOA; CAS No. 335-67-1), including any of its branched isomers:		<ul style="list-style-type: none"> • Photolithography or etch processes in semiconductor manufacturing • Photographic coatings applied to films
(ii) Its salts:		<ul style="list-style-type: none"> • Textiles for oil and water repellency for the protection of workers from dangerous liquids that comprise risks to their health and safety
(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 (C ₇ F ₁₅)C as one of the structural elements.		<ul style="list-style-type: none"> • 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
The following compounds are not included as PFOA-related compounds:		<ul style="list-style-type: none"> • Use of perfluorooctyl iodide for the production of perfluorooctyl

Chemical	Activity	Specific exemption
(a) C ₈ F ₁₇ -X, where X= F, Cl, Br;		bromide for the purpose of producing pharmaceutical products, in accordance with the provisions of paragraph 3 of Part X of this Annex
(b) Fluoropolymers that are covered by CF ₃ [CF ₂] _n -R', where R'=any group, n>16;		<ul style="list-style-type: none"> • 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
(c) Perfluoroalkyl carboxylic and phosphonic acids (including their salts, esters, halides and anhydrides) with ≥8 perfluorinated carbons;		
(d) Perfluoroalkane sulfonic acids (including their salts, esters, halides and anhydrides) with ≥9 perfluorinated carbons;		
(e) Perfluorooctane sulfonic acid (PFOS), its salts and perfluorooctane sulfonyl fluoride (PFOF), as listed in Annex B to the Convention.		<ul style="list-style-type: none"> • 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) In Schedule 1AA, Annex A, after Part IX, insert:

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 com-

- pounds 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.

- (3) In Schedule 1AA, Annex B, Part I, table, replace the item relating to perfluorooctane sulfonic acid, its salts, and perfluorooctane sulfonyl fluoride with:

Perfluorooctane sulfonic acid (CAS No. 1763-23-1), its salts ^a and perfluorooctane sulfonyl fluoride (CAS No. 307-35-7)	Production	<u>Acceptable purpose:</u> In accordance with Part III of this Annex, production of other chemicals to be used solely for the use below. Production for uses listed below.
^a For example: potassium perfluorooctane sulfonate (CAS No. 2795-39-3); lithium perfluorooctane sulfonate (CAS No. 29457-72-5); ammonium perfluorooctane sulfonate (CAS No. 29081-56-9); diethanolammonium perfluorooctane sulfonate (CAS No. 70225-14-8); tetraethylammonium perfluorooctane sulfonate (CAS No. 56773-42-3); didecyldimethylammonium perfluorooctane sulfonate (CAS No. 251099-16-8)		<u>Specific exemption:</u> None

Use	<p><u>Acceptable purpose:</u></p> <p>In accordance with Part III of this Annex for the following acceptable purpose, or as an intermediate in the production of chemicals with the following acceptable purpose:</p> <ul style="list-style-type: none"> • Insect baits with sulfluramid (CAS No. 4151-50-2) as an active ingredient for control of leaf-cutting ants from <i>Atta</i> spp. and <i>Acromyrmex</i> spp. for agricultural use only <p><u>Specific exemption:</u></p> <ul style="list-style-type: none"> • Metal plating (hard-metal plating) only in closed-loop systems • 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 10 of Part III of this Annex
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(4) In Schedule 1AA, Annex B, Part III, after paragraph 9, insert:

10. Each Party that has registered for an exemption pursuant to Article 4 for the use of PFOS, its salts and PFOSF for fire-fighting foam shall:
- (a) Notwithstanding paragraph 2 of Article 3, ensure that fire-fighting foam that contains or may contain PFOS, its salts and PFOSF 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 PFOS, its salts and PFOSF for training;
 - (c) Not use fire-fighting foam that contains or may contain PFOS, its salts and PFOSF for testing unless all releases are contained;
 - (d) By the end of 2022, if it has the capacity to do so, restrict uses of fire-fighting foam that contains or may contain PFOS, its salts and PFOSF 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 PFOS, its salts and PFOSF, in accordance with paragraph 1 of Article 6, as soon as possible.

5 Schedule 2A amended

In Schedule 2A, insert in their appropriate alphabetical order the items set out in the Schedule of this order.

Schedule New items inserted in Schedule 2A

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Substance	Use or storage	Manufacture	Expiry of permitted use or storage
Dicofol CAS No. 115-32-2 CAS No. 10606-46-9			
Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds	(a) photographic coatings applied to films: (b) 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 of the Stockholm Convention:		(a) 3 December 2025 (b) 3 December 2025 (c) no expiry date
“Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds” means the following:			
(a) perfluorooctanoic acid (PFOA); CAS No. 335-67-1), including any of its branched isomers:	(c) articles where PFOA, its salts and PFOA-related compounds have been in use, such as in coated textiles, papers, fluoropolymer membranes, or medical devices, in New Zealand on or before 3 December 2020		
(b) its salts:			
(c) PFOA-related compounds which, for the purposes of the Stockholm 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 (C ₇ F ₁₅)C as one of the structural elements			
The following compounds are not included as PFOA-related compounds:			
(a) C ₈ F ₁₇ X, where X= F, Cl, Br:			
(b) fluoropolymers that are covered by CF ₂ [CF ₂] _n -R', where R'=any group, n>16:			

Substance	Use or storage	Manufacture	Expiry of permitted use or storage
(c) perfluoroalkyl carboxylic and phosphonic acids (including their salts, esters, halides and anhydrides) with ≥ 8 perfluorinated carbons:			
(d) perfluoroalkane sulfonic acids (including their salts, esters, halides and anhydrides) with ≥ 9 perfluorinated carbons:			
(e) perfluorooctane sulfonic acid (PFOS), its salts and perfluorooctane sulfonyl fluoride (PFOSF), as listed in Annex B to the Stockholm Convention			

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on 3 December 2020, amends the Hazardous Substances and New Organisms Act 1996 (the **Act**). The order makes changes to Schedules 1AA and 2A of the Act to implement the 2020 amendments to the Stockholm Convention on Persistent Organic Pollutants.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 26 November 2020.

This order is administered by the Ministry for the Environment.