

# Intergovernmental Agreement on a National Framework for Responding to PFAS Contamination

Council of Australian Governments

An agreement between:

- the **Commonwealth of Australia** and
- the **states and territories**, being:
  - New South Wales
  - Victoria
  - Queensland
  - Western Australia
  - South Australia
  - Tasmania
  - Australian Capital Territory
  - Northern Territory

This agreement supports collaboration and cooperation between governments in Australia to respond consistently to per- and polyfluoroalkyl substances (PFAS) contamination.

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## PRELIMINARIES

1. This Intergovernmental Agreement (the Agreement) supports collaboration and cooperation between the Parties to respond consistently and effectively to per- and polyfluoroalkyl substances (PFAS) contamination.
2. PFAS are a group of manufactured chemicals that have been widely used globally since the 1950s in the manufacture of household and industrial products that resist heat, stains, grease and water, and in other specialised applications. Because they are heat resistant and film forming in water, some have also been used very effectively in fire-fighting foams.
3. The contamination of land and water due to the use of PFAS, especially historic and current use of PFOS (perfluorooctane sulfonate, also known as perfluorooctane sulfonic acid), PFOA (perfluorooctanoic acid) and PFHxS (perfluorohexane sulfonic acid), is an issue that all Australian governments are working to address.
4. The Parties to this Agreement commit to collaborating to deliver effective, risk-based responses to PFAS contamination that prioritise the wellbeing of affected communities and protection of the environment.
5. The Parties recognise that early identification, preventive action, effective cooperation, and clear communication are core elements of this Agreement, to ensure timely and appropriate responses for the benefit of communities.
6. While it is clear that PFAS can persist in humans, animals and the environment, understanding of the human health effects of long-term PFAS exposure is still developing. As a precaution, governments in Australia recommend that exposure be reduced wherever possible while research into any potential health effects continues. For more detailed information on human health effects, please see the [2019 enHealth Guidance Statements for PFAS](#).

## RECITALS

7. This Agreement builds on the achievement of the previous Council of Australian Governments (COAG) agreement on a National Framework for Responding to PFAS contamination. In the event of inconsistency between this Agreement and the previous agreement, this Agreement takes precedence.
8. In entering this Agreement, the Parties recognise that they have a mutual interest in reducing and responding to PFAS contamination, and need to work together to do this effectively.
9. This Agreement complements existing guidance and legislation that works to protect human health and the environment from harm caused by chemical contaminants, including but not limited to:
  - a) The Environmental Health Risk Assessment: Guidelines for assessing human health risks from environmental hazards and the associated Australian Exposure Factor Guide 2012, developed by the Environmental Health Standing Committee (enHealth)
  - b) The *Environment Protection and Biodiversity Conservation Act 1999* (Cth)
  - c) The Food Regulation Agreement (2008), and Australia's regulatory systems for food
  - d) The *Industrial Chemicals Act 2019* (Cth) and state and territory regulatory systems for chemicals. The *Industrial Chemicals Act 2019* replaces the *Industrial Chemicals (Notification and Assessment) Act 1989*. The *Industrial Chemicals Act 2019* commenced on 1 July 2020.
  - e) The *National Environment Protection Council Act 1994* (Cth), including but not limited to the *National Environment Protection (Assessment of Site Contamination) Measure 1999* (Cth) and state and territory regulatory systems for contaminated sites and environmental protection
  - f) Commonwealth, state and territory regulatory systems for the storage, treatment, transportation and disposal of waste, and in particular, hazardous waste
  - g) The National Environmental Health Strategy 2016-2020
  - h) The National Water Quality Management Strategy, including but not limited to:
    - i. The Australian Drinking Water Guidelines
    - ii. The Australian and New Zealand Guidelines for Fresh and Marine Water Quality
    - iii. The Australian Guidelines for Water Quality Monitoring and Reporting
    - iv. The Australian Guidelines for Water Recycling
    - v. The Guidelines for Managing Risks in Recreational Water
    - vi. The Guidelines for Groundwater Quality Protection in Australia
  - i) enHealth Responding to Environmental Health Incidents - Community Engagement Handbook.

10. This Agreement does not override any existing legislation or guidance.
11. This Agreement bears no consequence for international obligations relating to these chemicals, which will continue to be fulfilled by the Commonwealth on behalf of all Australian governments.

## Part 1 — FORMALITIES

### Parties to this Agreement

12. This Agreement is between the following Parties:
  - a) the Commonwealth of Australia (the Commonwealth)
  - b) the states and territories (the States).

## PART 2 — OBJECTIVES, PRINCIPLES AND KEY AREAS FOR ACTION

### Objectives

13. Through the implementation of this Agreement, the Parties aim to:
  - a) Effectively respond to PFAS contamination to protect the environment and, as a precaution, protect human health, including immediate responses to identified contamination, and longer term remediation or management responses
  - b) Strengthen national consistency, collaboration and cooperation in responding to PFAS contamination and working to prevent future PFAS contamination
  - c) Ensure actions are effective, implementable, financially and logistically sustainable, proportionate to risk, and support economic stability.

### Principles

14. The Parties will be guided by the following principles in responding to PFAS contamination:
  - a) The primary focus of governments should be:
    - i. action to protect the environment
    - ii. precautionary action to minimise human exposure
  - b) Cooperation between governments will deliver a more effective, proportionate and efficient response, especially where contamination crosses jurisdictional boundaries
  - c) Governments should be transparent in their communication with affected communities and each other
  - d) Government responses to PFAS contamination should:
    - i. acknowledge that a polluting Party will generally be responsible for identification and investigation of sites, assessment of risks, engagement with stakeholders, and management and remediation of the affected land as required (including associated costs), subject to the Party's legal rights and obligations
    - ii. be informed by available scientific evidence, consultation, risk assessment and good practice environmental management
    - iii. be financially and logistically sustainable for those responding

- iv. allow continued provision of public services
  - v. provide a balanced response to community and industry concerns, acknowledging the need for transparency, and early and direct communication
- e) Governments acknowledge that responses to PFAS contamination should consider the varying characteristics and needs of affected communities, taking into account both short and longer term community expectations and needs
  - f) All governments acknowledge the varying characteristics, responsibilities and needs of each jurisdiction
  - g) Public land and government activities should be subject to the same requirements for managing PFAS as private landholders and enterprises.

### Key areas for action

15. Key areas for action to increase national consistency in responding to PFAS contamination will include (but not be limited to):
- a) Following standard processes and existing guidance material to identify, investigate and manage PFAS contamination on government-owned sites, or on sites where government activities have resulted in PFAS contamination (PFAS Contamination Response Protocol at Appendix A)
  - b) Each party applying the most recent version of the PFAS National Environmental Management Plan that they have endorsed (Appendix B)
  - c) Implementing consistent communication and stakeholder consultation and engagement and sharing information across governments (PFAS Information Sharing, Communication and Engagement Guidelines at Appendix C)
  - d) Reducing PFAS releases into the environment, by working towards phasing out non-essential PFAS use, as outlined in the National PFAS Position Statement (Appendix D)
  - e) Applying guidance material agreed by relevant national government expert groups, including:
    - i. Health Based Guidance Values for PFAS for use in site investigations in Australia (Appendix E)
    - ii. Environmental Health Standing Committee (enHealth) Guidance Statements on Per- and poly-fluoroalkyl substances (Appendix F)
    - iii. Australian Health Protection Principal Committee Per- and poly-fluoroalkyl substances (PFAS) Factsheet (Appendix G)
    - iv. Food Regulation Standing Committee Statement Per- and poly-fluoroalkyl substances (PFAS) and the general food supply (Appendix H)
    - v. Any other guidance or statement on PFAS agreed by relevant national government expert groups.

- f) Supporting collaboration between agencies and industry stakeholders across jurisdictions
- g) Collaborating to advance high quality research into PFAS, potentially including but not limited to, human health, environmental impacts and remediation options.

## **PART 3 — ROLES AND RESPONSIBILITIES**

- 16. To realise the objectives and commitments in this Agreement, each Party has specific roles and responsibilities, as outlined below and in the appendices to this Agreement.

### **Role of the Commonwealth**

- 17. The Commonwealth agrees to work with the relevant States and other responsible entities such as industry bodies and Local Government to identify and manage PFAS contamination on and from Commonwealth sites and on sites where Commonwealth government activities have resulted in PFAS contamination, consistent with the PFAS Contamination Response Protocol (at Appendix A), and Clause 14d) of this Agreement.

### **Role of the States**

- 18. The States agree to work with each other and with other responsible entities such as industry bodies, Local Government, and the Commonwealth, as relevant, to identify and manage PFAS contamination on and from sites in their jurisdiction and on sites where States' activities have resulted in PFAS contamination, consistent with the PFAS Contamination Response Protocol (at Appendix A), and Clause 14d) of this Agreement.

## **PART 4 — IMPLEMENTATION ARRANGEMENTS**

- 19. Each Party will ensure an appropriate response to PFAS contamination in their jurisdiction, consistent with its areas of responsibility.
- 20. Environment Ministers will oversee the operation of this Agreement, including through the provision of advice and/or direction where areas of responsibility are unclear or disputed, in line with Clauses 25-26 of this Agreement.

## **PART 5 — GOVERNANCE ARRANGEMENTS**

### **Term of the Agreement**

- 21. This Agreement will commence as soon as the Agreement is signed by the Commonwealth and one other party and will operate unless the Parties by unanimous agreement in writing revoke it.

### **Enforceability of the Agreement**

- 22. The Parties do not intend any of the provisions of this Agreement to be legally enforceable. However, that does not lessen the Parties' commitment to this Agreement.

### **Review of the Agreement**

- 23. A review of this Agreement will occur two years after its commencement or earlier if agreed by the Parties, with regard to progress made by Parties in respect of achieving the agreed objectives.



## **Withdrawal from the Agreement**

24. A Party to the Agreement may terminate their participation in the Agreement at any time by notifying all the other Parties in writing.

## **Dispute resolution**

25. Any Party may give notice to other Parties of a dispute under this Agreement.
26. The Parties agree that if a dispute about this Agreement arises between the Parties it must be resolved expeditiously in accordance with the principles of the Agreement, and the following:
- a) officials of relevant Parties will attempt in good faith to resolve any dispute in the first instance
  - b) if the dispute remains unresolved, it may be referred to the relevant First Ministers' departments
  - c) if the dispute remains unresolved, it may be escalated to Environment Ministers, or First Ministers where appropriate and taking into account relevant regulatory frameworks, for resolution as soon as practical.


## **Variation of the Agreement**

27. The Agreement and its appendices may be amended at any time by agreement in writing by all the Parties, represented by their minister with responsibility for the environment.

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The Parties have confirmed their commitment to this Agreement as follows:

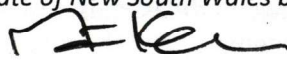
*Signed for and on behalf of the Commonwealth of Australia by*

  
\_\_\_\_\_

**The Honourable Sussan Ley MP**  
Minister for the Environment

Date *15<sup>th</sup> January 2020*

*Signed for and on behalf of the State of New South Wales by*

  
\_\_\_\_\_

**The Honourable Matthew Kean MP**  
Minister for Energy and Environment

Date *7.2.20*

*Signed for and on behalf of the State of Victoria by*

\_\_\_\_\_

**The Honourable Lily D'Ambrosio MP**  
Minister for Energy, Environment and Climate Change

Date

*Signed for and on behalf of the State of Queensland by*

\_\_\_\_\_

**The Honourable Leeanne Enoch MP**  
Minister for Environment and the Great Barrier Reef

Date

*Signed for and on behalf of the State of Western Australia by*

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**The Honourable Stephen Dawson MLC**  
Minister for Environment

Date

*Signed for and on behalf of the State of South Australia by*

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**The Honourable David Speirs MP**  
Minister for Environment and Water

Date

*Signed for and on behalf of the State of Tasmania by*

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**The Honourable Peter Gutwein MP**  
Minister for the Environment, Parks and Heritage

Date

*Signed for and on behalf of the Australian Capital Territory by*

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**Mr Mick Gentleman MLA**  
Minister for the Environment and Heritage

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*Signed for and on behalf of the Northern Territory by*

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Minister for Environment and Natural Resources

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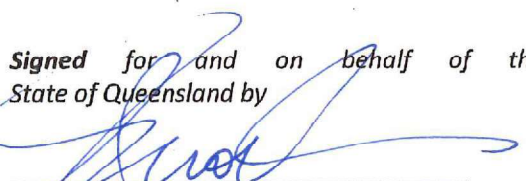
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Minister for Energy and Environment

Date

*Signed for and on behalf of the State of Queensland by*

  
The Honourable Leeanne Enoch MP  
Minister for Environment and the Great Barrier Reef

Date 27.08.2020

*Signed for and on behalf of the State of South Australia by*

The Honourable David Speirs MP  
Minister for Environment and Water

Date

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Minister for the Environment and Heritage

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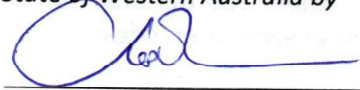
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Minister for Energy, Environment and Climate Change  
Date

*Signed for and on behalf of the State of Western Australia by*

  
\_\_\_\_\_  
**The Honourable Stephen Dawson MLC**  
Minister for Environment  
Date *17 February 2020*

*Signed for and on behalf of the State of Tasmania by*

\_\_\_\_\_  
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Minister for the Environment, Parks and Heritage  
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Minister for Environment and Water

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**The Honourable Roger Jaensch MP**  
Minister for Environment and Parks

Date 27-2-2020

**Signed for and on behalf of the Australian Capital Territory by**

**Signed for and on behalf of the Northern Territory by**

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Minister for the Environment and Heritage

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**The Honourable Eva Lawler MLA**  
Minister for Environment and Natural Resources

Date *17/2/20*



## APPENDICES

Appendix A: PFAS Contamination Response Protocol

Appendix B: PFAS National Environmental Management Plan – developed by the Heads of EPAs in Australia and New Zealand (HEPA)

Appendix C: PFAS Information Sharing, Communication and Engagement Guidelines

Appendix D: National PFAS Position Statement

Appendix E: Health Based Guidance Values for PFAS for use in site investigations in Australia – developed by Food Standards Australia New Zealand (FSANZ) and the National Health and Medical Research Council (NHMRC)

Appendix F: Environmental Health Standing Committee (enHealth) Guidance Statements on Per- and poly-fluoroalkyl substances – developed by the Environmental Health Standing Committee (enHealth) and endorsed by the Australian Health Protection Principal Committee (AHPPC)

Appendix G: Australian Health Protection Principal Committee Per- and poly-fluoroalkyl substances (PFAS) Factsheet – developed by enHealth and endorsed by the AHPPC

Appendix H: Food Regulation Standing Committee Statement Per- and poly-fluoroalkyl substances (PFAS) and the general food supply – published by the Food Regulation Standing Committee (FRSC)