

# Canada's PFAS Reporting Requirements: What You Need To Know



The Government of Canada has provided additional guidance to stakeholders regarding compliance with a mandatory survey requiring manufacturers, importers and users of 312 per- and polyfluoroalkyl substances (PFAS) to report information about their activities in Canada during the 2023 calendar year. This mandatory survey obligation, which was initiated by way of a [Notice](#) issued under section 71 of the *Canadian Environmental Protection Act, 1999* (the Notice), must be completed by January 29, 2025.

The purpose of section 71 notices is to gather information to inform decision-making for risk management measures, likely in the form of future regulation, related to these substances.

In what follows, we discuss who must report under the Notice, what information must be supplied, how to determine which compliance obligations are applicable, and how to fulfil such obligations.

## Reporting Thresholds

An entity must comply with the reporting requirements if in 2023 it:

- Manufactured more than 1000 g (1 kg) of a listed PFAS (refer to [Schedule 1](#))

- Imported more than 10 g of certain listed PFAS (refer to [Part 1](#) of Schedule 1)
- Imported more than 100 kg of other listed PFAS (refer to [Part 2](#) or [Part 3](#) of Schedule 1), either alone or present in a product, mixture or one of [12 listed manufactured item categories](#) at a concentration of at least 1 ppm
- Imported more than 100 kg of any listed PFAS at a concentration of at least 1 ppm in a manufactured item that does not fall within the 12 above-mentioned [listed items](#)
- Used more than 10 g of a listed PFAS in the manufacture of a mixture, product or manufactured item, whether that PFAS was alone or at a concentration of at least 1 ppm

## Exclusions

Entities which only exported covered substances or goods in 2023 are not required to respond to the Notice. In addition, the Notice expressly excludes “micro businesses” (entities with under C\$30,000 in gross revenue and less than five employees) from the reporting requirements. The Notice also does not apply to a listed PFAS or a good containing PFAS that:

- Is only in transit through Canada
- Is for personal use (i.e., use by an individual for non-commercial purposes)
- Is for use in a non-industrial laboratory (i.e., for analysis in scientific research or as a laboratory standard)
- Is or is part of hazardous waste or hazardous recyclable material that is exported or imported with a permit issued under the [Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations](#)
- Is registered under specific pest control, fertilizer or agricultural legislation

## Required Information

If an entity meets the reporting thresholds and no exclusion applies, it must disclose:

- **Identifying information**, including the reporting entity's name, address, business number and the contact information of an authorized representative
- **Facility information**, including the name and address of each facility the reporting entity owns in Canada that manufactures or uses a listed PFAS, whether any known releases of a listed PFAS occurred at the facility, and a description of any policy or procedure in place to manage or mitigate such releases
- **Information about the prescribed substances**, including the quantity of each listed PFAS manufactured, imported, exported and/or used
- **Information about goods containing a reportable substance manufactured in or imported into Canada**, including the function of PFAS in each good, the concentration of the PFAS and the intended use of the good
- **Additional technical data for fluoropolymers listed in [Part 2 of Schedule 1](#)**, including molecular weight distribution, structural formulas, expected transformation or degradation products and information about its constituent monomers. Based on guidance provided during a recent information session, entities do not need to perform testing on the substances listed in Part 2 to provide the information required by the Notice. Rather, they only need to provide information that they or their suppliers already possess.

Note that entities that import manufactured items falling outside the 12 listed categories only have to provide identifying information and descriptions of each manufactured item containing the substance, as well as technical data for any fluoropolymers contained in the items they import.

## **Due Diligence Standard**

Entities subject to reporting requirements need only provide “reasonably accessible” information. This includes any information that the entity (or its employees and other agents) may possess or to which it can be reasonably expected to have access. Environment and Climate Change Canada (ECCC) and Health Canada (HC) have clarified that they view information in the possession of an entity’s subsidiaries or international branches to be reasonably accessible. They also expect that reporting entities will make reasonable efforts to contact relevant parts of their supply chain, including customers, foreign suppliers and sector associations.

## **Protection of Confidential Business Information**

A reporting entity can claim confidentiality over information submitted to fulfil the Notice requirements. However, protection will only be extended to information that is considered confidential under Canadian law, such as trade secrets or sensitive financial, commercial, technical or scientific information that is consistently treated in a confidential manner. ECCC and HC have taken the position that the following information is not expected to be confidential:

- Trade names
- General information on uses
- Safe handling precautions to be observed in the manufacture, storage, transport and use of the substance
- Recommended methods for disposal and elimination
- Safety measures to be employed in the event of an accident
- Physical and chemical information other than information revealing the identity of a substance
- Summaries of health, safety and environmental data, including figures and interpretations

If an entity's foreign supplier has confidentiality concerns that prevent it from responding to the reporting entity's request for information, it can opt to submit the information it believes is confidential as part of a blind submission, through which the supplier and reporting entity each submit information required by the Notice directly to the Government of Canada.

## How to Comply

Reporting entities must submit the required information via ECCC's Single Window online reporting system by the reporting deadline. If they are not subject to the Notice, entities can choose to submit but are not required to do so:

- **A Declaration of Stakeholder Interest** if they are uncertain as to whether they meet the reporting thresholds or if they have an interest in any of the 312 reportable PFAS (by, for example, using a listed substance below the threshold quantity) and wish to submit information to inform the federal government's decision-making with respect to what, if any, risk management measures to implement with respect to the listed PFAS
- **A Declaration of Non-Engagement** if they do not have any interest in the reportable substances

The deadline for responses to the Notice is January 29, 2025. If necessary, an extension can be requested at least five business days prior to the deadline.

## Takeaways

- Entities meeting one or more of the reporting thresholds set out in the Notice must submit the requested information by January 29, 2025, unless an extension is requested and granted by ECCC and HC.
- Reporting entities must provide information that they

possess or to which they may reasonably be expected to have access, which includes any reasonably accessible information within their supply chain and any information possessed by subsidiaries.

- If an entity is unable to determine whether it meets any of the reporting thresholds after making reasonable efforts to obtain composition information from suppliers, the entity may wish to file a Declaration of Stakeholder Interest to signal that it has made appropriate inquiries but has not been able to confirm the presence of listed PFAS in one or more of its goods.
- Concerns about confidentiality can be addressed by submitting a request to treat submitted information as confidential, but this protection only applies to information that is generally recognized as confidential under Canadian law.

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*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*

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