

# Federal Government Publishes Notice Requiring PFAS Information And Updates Its Draft State Of PFAS And Risk Management Scope Reports



## Notice Requiring PFAS Information

On July 27, 2024, the Federal Government published a [Notice with respect to certain per- and polyfluoroalkyl substances \(PFAS\)](#) in the Canada Gazette under paragraph 71(1)(b) of *Canadian Environmental Protection Act, 1999* (CEPA). The purpose of the Notice is to gather information on 312 PFAS substances listed in Schedule 1 of the Notice to establish baseline commercial use data and support future activities related to the regulation of the class of PFAS. The Federal Government has also published a companion [Guidance manual](#) to assist with responding to the Notice. The deadline for reporting under the Notice is January 29, 2025.

## Scope

The Notice applies to persons who, during the 2023 calendar year, participated in any of the following activities described in Section 2 of the Notice:

- manufactured a total quantity greater than 1,000 grams

- of a substance listed in Schedule 1;
- imported a total quantity greater than 10 grams of a substance listed in Part 1 of Schedule 1, or a total quantity greater than 100 kilograms of a substance listed in Part 2 or Part 3 of Schedule 1, whether the substance was alone, or at a concentration equal to or above one part per million (ppm) in a mixture or in a product, or at a concentration equal to or above one ppm in specifically listed manufactured items (which are specific sensitive uses based on the intended use or user of the item, such as items intended to be used by children under the age of 14 years);
- imported a total quantity greater than 100 kilograms of any substance listed in Schedule 1 at a concentration equal to or above one ppm in a manufactured item that is not specifically identified in the Notice; or
- used a total quantity greater than 10 grams of a substance listed in Schedule 1, whether the substance was alone, or at a concentration equal to or above one ppm in a mixture or in a product, in the manufacture of a mixture, a product or a manufactured item.

The Guidance manual provides further information on the intended scope of the key activities that are reportable, including the meaning of the terms 'manufacture', 'import' and 'use in the manufacture of a good' (a good is defined as a mixture, product or manufactured item), as well as examples of imported manufactured items that fall within the scope of the specifically listed manufactured items. Of specific note, the term manufacture includes both the intentional or the incidental (unintended) creation or production of one or more of the reportable substances.

## **Information to be Reported**

The information that must be reported under the Notice varies according to which of the above reporting criteria are met,

with certain activities requiring more detailed information. The categories of reportable information include:

- total quantities of substances manufactured, imported, used or exported;
- descriptions and common/generic names;
- concentration or range of concentrations;
- known releases into air, water or land from facilities;
- a description of policies and procedures to manage, mitigate or minimize such releases; and
- technical data such as molecular weight distribution, structural formula and expected conditions resulting in degradation, depolymerization or decomposition of the polymer (and identification of decomposition products), among others.

The Notice requires a person to report information that they possess or to which they may reasonably be expected to have access. The Guidance manual provides some further direction on this point. It states, for example, that importers should have access to import quantities and supporting documentation such as Safety Data Sheets, product data sheets, etc. that contain information on the composition of imported items. It also notes that supply chain partners may be able to provide information to help you to respond to the Notice and provides a template letter that can be used to request the relevant information.

## **Exclusions**

There are several common exclusions from reporting under the Notice, such as substances (whether alone or in a mixture, product or manufactured item) that are contained in, or used for, personal use, hazardous waste or recyclable material, pest control products and fertilizers, etc. The Notice also does not apply to a person who would be considered a micro-business, which is an organization or company with fewer than five employees or less than \$30,000 of annual gross revenue.

# Updated Draft State of PFAS and Risk Management Scope Reports

This Notice follows on the recent publication (July 2024) by the Federal Government of the [Updated Draft State of Per- and Polyfluoroalkyl Substances \(PFAS\) Report](#) and the [Revised Risk Management Scope for Per- and Polyfluoroalkyl Substances \(PFAS\)](#) (the Updated Reports). The Updated Reports present updates to the initial reports published in May 2023 (see our prior discussion [here](#)), and reflect feedback received by the Federal Government during the public consultation (a summary of comments received can be found [here](#)). The Updated Reports propose to conclude that all substances in the class of PFAS, excluding fluoropolymers as defined in the Updated Reports, have the potential to cause harm to the environment and human health, and, as such, the Ministers of Health and the Environment propose to recommend that the class of PFAS, excluding fluoropolymers, be added to Part 2 of Schedule 1 of CEPA. The May 2023 reports did not exclude fluoropolymers from the proposed class of PFAS. However, the Updated Reports indicate that fluoropolymers may have differences from other PFAS in the proposed class and a separate assessment is planned for these chemicals. The Updated Reports are open for stakeholder consultation until September 11, 2024.

*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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