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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 poly- fluoroalkyl substances (PFAS) contamination.

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Intergovernmental Agreement on a National Framework for Responding to PFAS Contamination

PRELIMINARIES

1. This Intergovernmental Agreement (the Agreement) supports collaboration and cooperation between the Parties to respond consistently and effectively to per- and poly-fluoroalkyl 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 PFOS¹, PFOA² and PFHxS³, 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, 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, there is currently no consistent evidence that PFAS exposure is harmful to human health. As a precaution, governments in Australia recommend that exposure be reduced wherever possible while research into any potential health effects continues.

¹ perfluorooctane sulfonate, also known as perfluorooctane sulfonic acid

² perfluorooctanoic acid

³ perfluorohexane sulfonic acid

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RECITALS

7. In entering this Agreement, the Parties recognise that they have a mutual interest in responding to PFAS contamination, and need to work together to do this effectively.
8. 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 (Notification and Assessment) Act 1989* (Cth) and state and territory regulatory systems for chemicals
 - 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
 - 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) Responding to Environmental Health Incidents - Community Engagement Handbook, developed by enHealth.
9. This Agreement does not override any existing legislation, agreements or other guidance.
10. 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.

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PART 1 — FORMALITIES

Parties to this Agreement

11. 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

12. 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
 - c) Ensure actions are effective, implementable, financially and logistically sustainable, proportionate to risk, and support economic stability.

Principles

13. 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 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 hold responsibility 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

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- 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

14. 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) Applying the PFAS National Environmental Management Plan, as endorsed by the Heads of EPAs in Australia and New Zealand (HEPA) and agreed by Environment Ministers (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) 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 D)
 - ii. Environmental Health Standing Committee (enHealth) Guidance Statements on Per- and poly-fluoroalkyl substances (Appendix E)
 - iii. Australian Health Protection Principal Committee Per- and poly-fluoroalkyl substances (PFAS) Factsheet (Appendix F)
 - iv. Food Regulation Standing Committee Statement Per- and poly-fluoroalkyl substances (PFAS) and the general food supply (Appendix G)
 - v. Any other guidance or statement on PFAS agreed by relevant national government expert groups.
 - e) Supporting collaboration between agencies and industry stakeholders across jurisdictions

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- f) 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

- 15. 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

- 16. 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 13d) of this Agreement.

Role of the States

- 17. The States agree to work with each other, 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 13d) of this Agreement.

PART 4 — IMPLEMENTATION ARRANGEMENTS

- 18. Each Party will ensure an appropriate response to PFAS contamination in their jurisdiction, consistent with its areas of responsibility.
- 19. 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 24-25 of this Agreement.

PART 5 — GOVERNANCE ARRANGEMENTS

Term of the Agreement

- 20. 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

- 21. 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

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

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Withdrawal from the Agreement

23. 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

24. Any Party may give notice to other Parties of a dispute under this Agreement.
25. 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 IGA, 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.

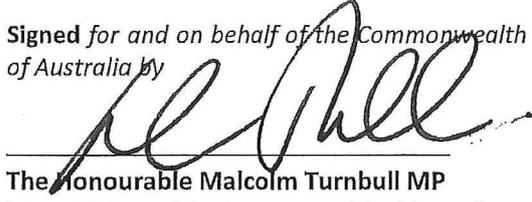
Variation of the Agreement

26. 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 Malcolm Turnbull MP
Prime Minister of the Commonwealth of Australia

Date

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

The Honourable Gladys Berejiklian MP
Premier of the State of New South Wales

Date

Signed for and on behalf of the State of Victoria by

The Honourable Daniel Andrews MP
Premier of the State of Victoria

Date

Signed for and on behalf of the State of Queensland by

The Honourable Anastacia Palaszczuk MP
Premier of the State of Queensland

Date

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

The Honourable Mark McGowan MP
Premier of the State of Western Australia

Date

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

The Honourable Jay Weatherill MP
Premier of the State of South Australia

Date

Signed for and on behalf of the State of Tasmania by

The Honourable Will Hodgman MP
Premier of the State of Tasmania

Date

Signed for and on behalf of the Australian Capital Territory by

Mr Andrew Barr MLA
Chief Minister of the Australian Capital Territory

Date

Signed for and on behalf of the Northern Territory by

The Honourable Michael Gunner MLA
Chief Minister of the Northern Territory of Australia

Date

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APPENDICES

Appendix A: PFAS Contamination Response Protocol

Appendix B: The PFAS National Environmental Management Plan⁴

Appendix C: PFAS Information Sharing, Communication and Engagement Guidelines

Appendix D: Health Based Guidance Values for PFAS for use in site investigations in Australia⁵

Appendix E: Environmental Health Standing Committee (enHealth) Guidance Statements on Per- and poly-fluoroalkyl substances⁶

Appendix F: Australian Health Protection Principal Committee Per- and poly-fluoroalkyl substances (PFAS) Factsheet⁷

Appendix G: Food Regulation Standing Committee Statement Per- and poly-fluoroalkyl substances (PFAS) and the general food supply⁸

⁴ Developed by the Heads of EPAs in Australia and New Zealand (HEPA)

⁵ Endorsed by the Australian Health Protection Principal Committee (AHPPC) and reviewed by the Australian Health Ministers Advisory Committee (AHMAC)

⁶ Developed by the Environmental Health Standing Committee (enHealth) and endorsed by the Australian Health Protection Principal Committee (AHPPC)

⁷ Developed by enHealth and endorsed by the AHPPC

⁸ Published by the Food Regulation Standing Committee (FRSC)