

PFOS Briefing Note

Information for exempt applications

June 2011 (Version 2)

Perfluorooctane sulfonic acid and its derivatives (PFOS) – managing stockpiles and wastes from exempted uses.

Background

In August 2010, PFOS and its derivatives (hereafter collectively referred to as PFOS) became regulated across Europe under the Persistent Organic Pollutants (POPs) Regulation 850/2004 (as amended). In general, the production, placing on the market and use of substances, preparations, mixtures, semi-finished products and articles that contain PFOS (at above a certain concentration) is banned¹.

Some materials² and uses are exempt from the PFOS ban, but may still be covered by other legal requirements. In particular, the Regulation also prescribes how stockpiles containing POPs must be managed and notified, and how wastes that contain POPs must be disposed.

Intended audience

This briefing note has been prepared by the Chemical Compliance Team. It is intended to be read by any business that deals with materials² that contain PFOS and are covered by one of the exemptions described below.

Substances listed in Annex I or II of the EU POPs Regulation may be produced, supplied or used for laboratory-scale research and reference standards.

Specific exemptions from the PFOS prohibition are as follows:

- wetting agents for use in controlled electroplating systems (until 26 August 2015);
- photoresists or anti-reflective coatings for photolithography processes;
- photographic coatings applied to films, papers, or printing plates;
- mist suppressants for non-decorative hard chromium (VI) plating in closed loop systems;
- hydraulic fluids for aviation.

Note: If your business is involved with PFOS for any of the specific exemptions listed above, you should be aware that these uses:

- will also be phased out when the use of safer alternatives becomes technically and economically feasible;
- can only be continued in essential circumstances, where the efforts undertaken to find a safer alternative have been reported on; and
- are only allowed where releases of PFOS to the environment have been minimised, by applying best available techniques.

¹ Refer to the full text of the Annex I listing for PFOS in Regulation (EU) 757/2010 for more information

² Materials may include substances, preparations, textiles or other coated materials, semi-finished products or articles (or parts thereof).

Identification of PFOS

A list of PFOS derivatives is supplied in Annex I of the following publication from the Organisation of Economic Co-operation and Development (OECD):

Title: Lists of PFOS, PFAS, PFOA, PFCA, related compounds and chemicals that may degrade to PFCA (as revised in 2007)
(OECD Environment, Health and Safety Publications, Series on Risk Management, No.21, Ref: ENV/JM/MONO(2006)15 Unclassified)

The above document is available online at www.oecd.org

You can also access it via the 'PFOS' page on our web site. If you would like us to send you the link for this OECD publication, or an electronic version of the full document, please contact us.

Action required: Stockpiles

Stockpiles of material that consists of or contains any substance listed in Annex I or II of the EU POPs Regulation must be managed in a safe, efficient and environmentally sound manner. This is to prevent the materials posing a serious risk to the environment or human health, for example by contaminating soil or groundwater.

If the stockpile material is not covered by an exemption, it must be managed as waste and disposed of in accordance with the methods prescribed by the EU POPs Regulations, without undue delay.

Any stockpile exceeding 50kg of a PFOS-containing material that is covered by an exemption must be notified to the environmental regulator responsible for the relevant geographic location **by 26 August 2011**, or as soon as the stockpile exceeds 50kg after that date.

Such exempt stockpiles that are held in England or Wales must be notified to the Environment Agency's Chemical Compliance Team. Contact details are provided at the end of this document.

- Notifications must include details about the nature and size of the stockpile.
- Holders of notified stockpiles must continue to update the regulator on an annual basis.

Action required: Waste management of PFOS

Wastes that contain a POP substance in concentrations above the limits listed in Annex IV of the EU POPs Regulation must be disposed of in certain ways. Currently, there is no lower concentration limit for PFOS in Annex IV. This means that the management and disposal of **any waste material that contains any concentration of PFOS** must be in accordance with the methods prescribed by the Regulation.

The European Commission (EC) is expected to decide a lower concentration limit for PFOS waste management in 2011. Until that time, all PFOS-containing wastes must:

- not be allowed to contaminate other waste materials that do not contain POPs; and
- be disposed of, *without undue delay*, by one of the prescribed methods listed in Annex V (Part 1) of the Regulation, unless the holder of the waste has successfully applied for a derogation.

We recognise that holders of wastes that contain a relatively low concentration of PFOS may prefer to delay the disposal of that material until the EC has decided upon a lower concentration limit. If your company is in this position you should contact us. We will assess what constitutes 'without undue delay' on a case-by-case basis – amongst other factors, this assessment will consider the quantity of waste material being produced, the concentration of PFOS contained in it, and the conditions of its storage.

customer service line
08708 506 506

incident hotline
0800 80 70 60

floodline
0845 988 1188

www.environment-agency.gov.uk

Waste management options

Annex V (Part 1) of the EU POPs Regulation prescribes methods for disposal of waste that contains any POP chemical at or above the concentration limit listed in Annex IV (there is currently no lower limit for PFOS waste). The following methods must be applied in such a way as to ensure that the persistent organic pollutant is destroyed or irreversibly transformed:

- Physico-chemical treatment
- Incineration on land
- Use principally as a fuel or other means to generate energy (excluding wastes that contain polychlorinated biphenyls)
- Recycling or reclamation of metals and metal compounds (if certain conditions are met)

Waste management derogations

A POPs derogation is an approval to carry out an otherwise banned waste management activity.

Holders of POPs-waste of a type listed in Annex V, Part 2³ can apply for it to be dealt with by one of the named permanent storage methods.

Hazardous waste landfill of the waste material will only be allowed where the POPs content of the material is below the maximum concentration limit listed in Annex V, Part 2. Pre-treatment prior to permanent storage may be carried out so long as the POP-containing fraction of the material that is isolated during the pre-treatment process is then destroyed or irreversibly transformed by one of the disposal methods listed in Annex V, Part 1 (see 'Waste management options').

A derogation shall only be granted in exceptional cases and if the proposal meets certain strict criteria. For more information about the process, please contact us.

Further Information

Our guidance notes about the EU POPs Regulation are currently under review. If you need more information about the legal controls on the production, supply, use and disposal of POPs, please contact us:

- Send an email to chemicalrestrictions@environment-agency.gov.uk
- Call our National Customer Contact Centre on **03708 506 506** (ask to speak to a member of the Chemical Compliance Team about 'POPs').

Stockpile notifications can be sent to us by email (as above) or by post:

Chemical Compliance Team
Waste and Industry Regulatory Service
Environment Agency
Quadrant 2
99 Parkway Avenue
Sheffield
S9 4WF

³ Types are defined by European Waste Catalogue codes.