

REGULATION IMPACT STATEMENT FOR A NATIONAL PHASE OUT OF PFOS PORTS AUSTRALIA SUBMISSION

Ports Australia welcomes the opportunity to comment on the Government's consideration for a national phase out of perfluoro octane sulfonic acid (PFOS) and related chemicals.

Ports Australia interest in this matter stems from the stockpile and use of fire-fighting foam at our ports. Our organisation and our members have spent considerable time, energy and monies understanding the issues surrounding the use of fire-fighting foam at our ports and the impact it has on the environment. This has included engaging with State regulators who have been canvassing the issue in parallel.

Ports Australia consulted closely with all its members in harnessing the proceeding information and putting forward views on the Government's consideration for a national phase out of PFOS and related chemicals.

Ports Australia – Representation

Ports Australia is the peak industry body representing all port authorities and corporations, both publicly and privately owned, at the national level. Ports Australia is a constituted company limited by guarantee with a Board of Directors, comprising the CEOs of eleven member ports. Our website is at www.portsaustralia.com.au

Ports Australia aims to work closely with the Government and its agencies on the development and implementation of policies and regulatory settings that will facilitate the efficient and safe operation of our ports and ensure that they have the ability to develop their capacity to meet Australia's freight task.

Ports Australia – Position

Ports Australia supports the Government's initiative to phase-out PFOS and it related chemicals. We are supportive of the strongest initiative outlined – Option 4: Ratify and phase out all non-essential uses.

From our view this action cannot come soon enough given the significant health and environmental impacts related to the use of fire-fighting foam that have been brought to light. While we note the Department's view that evidence is still evolving regarding environmental and health impacts, there is significant and clear evidence on the devastating impact to animals, including examples noted in the Regulation Impact Statement (RIS). Given that this evidence includes impact on marine life, which potentially is being consumed by humans, there is significant need for action. There is also high-profile anecdotal evidence on the impact of human health stemming from PFOS in ground water surrounding military bases in Williamstown, New South Wales and Enoggera, Queensland.

Clearly the health and environmental concerns regarding the impact of using PFOS products over decades has reverberated around the globe with 171 countries already ratifying the Stockholm Convention,

including our partners New Zealand, China and the United Kingdom.

Australia's ports have been proactive in responding to these concerns with several disposing of PFOS fire-fighting foam prior to any government consideration on the matter. Some, such as the Port of Newcastle, Fremantle Ports, and the Port of Esperance have moved towards world leading practices and do not hold or use fire-fighting foams containing PFOS or PFOA. In addition, ports in Queensland and South Australia have disposed or are in the transition of disposing all their long chain PFOA fire-fighting foam, which includes those containing PFOS. This is consistent with recent regulations being enacted by those States.

As evident from the above examples Australia's ports are undertaking actions considerate of the health and environmental sustainability of our society, and in line with approaches of many of our international partners. Challenges however exist for those Australian ports that are looking to effectively and efficiently dispose of this hazardous foam:

- We are aware of only one certified incineration facility for fire-fighting foam which is located in Queensland. This clearly limits the ability of ports and others around the country from efficiently disposing of the fire-fighting foam. This situation also leads to high costs of disposal given the monopoly that exists for this service. The Commonwealth should look to implement short-term subsidizes for the use of this facility to encourage the proactive disposal of fire fighting foam for the overall benefit of the community and to reduce the risk of accidental discharge from those storing it until a cost-effective option is available.
- The disposal cost of fire-fighting foam is also increasing exponentially due to a lack of service providers that collect and transport the foam to a holding facility or the incineration facility. An increase in demand for these services, if mandated by Government, will likely exacerbate this cost escalation given that no new entrants in the marketplace are likely for these temporary services. The Commonwealth should look to implement measures that manage this issue given the proactive and positive actions being undertaken by industry, and the overall benefit to the community.
- Some of our ports do not have the knowledge and are struggling to source data that clearly identifies whether their fire-fighting foam contains PFOS or a PFOS derivative, which is limiting their ability to make prudent decisions. The associated safety data sheets for the majority of products on the market lack sufficient detail to clearly identify PFOS foam making it difficult for procurement, use and management. Through this RIS process some of our ports have been able to determine their fire-fighting foam stock is a PFOS derivative. The Commonwealth Government should look to continue providing formal advice on this issue or mandate that fire fighting foam producing companies clearly identify the content with regards to PFOA or any constituents identified within the Stockholm Convention.
- There is a lack of consistent guidance and expertise around the country on decontaminating systems. We recognise that the issues surrounding fire-fighting foam are still relatively new and accordingly few experts are available domestically to assist industry clean, eradicate and replace fire-fighting foam. Given the proactive efforts of industry, the Commonwealth should look to prioritise support for guidance on this matter irrespective of the option it implements.

Ports Australia also considers the challenge of international ships carrying PFOS and PFOA fighting-foam cannot be overlooked as part of the Government's action. While we note that regulation regarding the fire-fighting foam onboard ships is determined by the flag country, the use of this hazardous foam while a

vessel is berth at a port will lead to run-off into Australian port waters, affecting Australia's marine life and population. We understand that lobbying at the International Maritime Organisation (IMO) has recently begun with respect to this matter but a formal discussion among member countries has not eventuated. In the interim, the Commonwealth Government should consider options on operational restrictions that can mitigate the risk caused from international ships carrying fire-fighting foam containing PFOA, including PFOS.

Response to Questions

The capacity of industry to achieve the proposed PFOS phase outs, process improvements and waste disposal requirements, including destruction.

The proposed PFOS phase outs, under the Ratification of the Stockholm Convention amendment on PFOS, will not have a significant impact on Australian ports. As outlined above, the ports industry has been increasing its awareness of the impacts of fire-fighting foam for several years and has taken actions, either to limit its usage and/or to dispose of the hazardous material. This includes liaising:

- with the Queensland Government since its consideration of introducing policy that eradicates PFOA fire fighting foam
- with Solberg to understand alternative options to PFOA fire-fighting foam.

Accordingly, all our ports are aware of the issue regarding fire-fighting foam containing PFOS and PFOA, and have plans to transition to PFOA free foam in the near future. One of the key challenges post disposal of this foam is, an effective alternative. There is limited options in the market with only Solberg providing the most environmentally viable product, at this time.

With regards to status of individual Australian ports, Ports Australia is aware that ports in South Australia and Queensland have, or are already taking measure to dispose of PFOS fire-fighting foam and any decision by the Commonwealth Government with regards to the options presented will have limited impact on these ports. Additionally, several other ports – most WA ports, Port Kembla and the Port of Newcastle – have, or are being proactive in disposing their PFOS fire fighting foam. Accordingly, the Government's decision with regards to the options presented will also have limited bearing on these ports.

Additional information that would help to substantiate, or refine the accuracy of, the analysis of costs and benefits

In its development of the RIS, the Department may have omitted analysis of tugs that work in our ports. Several of these vessels carry fire-fighting foam containing PFOS and PFOA. While the quantities are not significant for the overall financial calculations of regulatory and industry burden financial calculations (e.g. 5-8m³ per tug that has fire-fighting foam onboard), it is another source that must be accounted for as part of any future consideration to phase out PFOS.

Ports Australia considers that the projected costs attributed to implementing PFOS phase out in the Department's report may be on the higher end. Our view is based on the fact that prior to the

Commonwealth Government's consideration of this matter, the ports industry has already taken proactive steps on the disposal of PFOS and POFA fire-fighting foam and have borne associated cost for the betterment of the environment surrounding our ports.

For fire-fighting, information on the current import, use, storage and stocks of PFOS containing fire fighting foams, including use in shipping

As previously noted Australia's ports are well aware of the issues surrounding existing fire-fighting foam and have limited its use. Consequently, our ports have not undertaken any recent procurement of fire fighting foam containing PFOA chemicals.

Ports Australia estimates that ports around Australia are holding approximately 70,000-80,000 litres of fire fighting foam containing PFOS or its derivatives. This estimate excluding the states of South Australia and Queensland given the changes occurring there due to recent regulations. It is also a point in time estimate noting the commentary above that some ports are planning to dispose of their PFOS foam in the near future.



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