

NZ PFAS Programme – Roles and Responsibilities

National PFAS Programme - Context

An All-of-Government Programme (AoG), led by the Ministry for the Environment, is overseeing and co-ordinating the response to Per- and poly-Fluorinated Alkly Substances (PFAS) contamination in NZ. PFAS substances have been extensively manufactured and used worldwide. They are a complex family of more than 3,000 synthetic fluorinated organic chemicals, although not all are currently in use or production.

PFAS compounds include both PFOA and PFOS chemicals that have been used in firefighting over the last 50 years for flammable liquid fires at airports and other fire training sites across New Zealand. PFOS is a persistent organic pollutant (POP) which was banned for use in New Zealand from 2006 onwards in fire-fighting foams, and from 2011 in all other products.

PFAS are new contaminants with unique properties and their interaction with humans and the environment are only partially understood. Research to date has found no conclusive evidence to quantify the health and environmental effects of PFAS. Consistent with other administrations worldwide, the All of Government programme is adopting a cautious health-first approach to PFAS largely because of its bio-accumulative properties.

The initial PFAS investigations stemmed from the historic use of firefighting foams on New Zealand Defence Force sites. Firefighting foam was not the only use of PFAS so other industries and sites will be identified and, where required, investigated.

The Ministry for the Environment

The day-to-day environmental management on contaminated land issues is largely the responsibility of regional councils and territorial authorities. The Ministry is responsible for administering the Resource Management Act 1991 (RMA), which is the core piece of legislation relating to contaminated land, and the Hazardous Substances and New Organisms Act 1996 (HSNO).

HSNO is designed to regulate how hazardous substances are used across their life cycle. It creates a regime of controls for how hazardous substances are contained, labelled, stored, used, transported or disposed of. The RMA allows local authorities to manage the effects of the use of hazardous substances.

The Ministry's responsibilities for contaminated land management are in respect of the [National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health](#) (NES-CS), the [Hazardous Activities and Industries List](#) (HAIL), and associated [guidelines](#).

The All of Government programme can provide assistance to the regional councils in carrying out their functions through providing information and coordinating to ensure the response is consistent between councils. The Ministry is currently working with other central government agencies and local government to develop a toolbox of guidance and information.

Regulatory responsibilities

- Regional councils in respect of:
 - Contamination of land or water [\[s.30\(1\)\(f\) RMA\]](#);
 - The cause of ongoing contamination (i.e. leaching of PFAS from soil into groundwater) and other environmental effects from PFAS contamination;
 - A function to investigate land for the purposes of identifying and monitoring contaminated land [\[s.30 \(1\)\(ca\) RMA\]](#)
- Territorial authorities in respect of:
 - The control of land use, including for the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land [\[s.31\(1\)\(b\) RMA\]](#).
 - Requests for a Land Information Memorandum (LIM) or Project Information Memorandum (PIM) – requirement to disclose information on the land, including the likely presence of hazardous contaminants.
 - As a water supplier, providing safe drinking water (Health Act) and Drinking Water Standards for New Zealand 2005 (Revised 2008).
 - The making of trade waste by laws relevant to the disposal of PFAS substances into waste water treatment plants.
 - The issuing of discharge consents by regional councils and territorial authorities that may be relevant to the consenting of landfills into which PFAS substances might be deposited.
- The EPA in respect of
 - Carrying out a risk assessment of hazardous substances that contain PFAS compounds with a view to approving or declining to approve their use in New Zealand and to ensure that they are safely handled and disposed of
 - Enforcing the prohibitions in the HSNO Act on the use of PFAS chemicals that are internationally recognised as persistent organic pollutants under the Stockholm Convention– currently this only applies in relation to PFOS but PFOA and another PFAS chemical, PFHxS have also been proposed for listing as Stockholm chemicals.
- Worksafe New Zealand in respect of [See policy clarification](#)
 - Risks to health and safety of people in workplaces (including farms) resulting from either direct exposure to PFAS or through contaminated drinking water;
- The Ministry of Health (MOH) in respect of
 - The provision of health advice and health to protect and promote public health, in an advisory role.
 - The Health Act 1956 - where there is a danger to public health, that an owner or occupier of land can be required by a medical officer or police officer to abate the nuisance.
 - *MoH has no regulatory responsibility for non-reticulated drinking-water supplies. The interim guidance levels for drinking-water were developed as part of MoH's role in protecting public health but are advisory and not in the Drinking-Water Standards.*
- The Ministry of Primary Industries (MPI) in respect of
 - Risks to human health from the consumption of agricultural products produced with PFAS contaminated water, and risks to animal welfare through the use of PFAS contaminated water for animal consumption.

Landowner Responsibility

Landowners have responsibilities under regulations for potentially contaminated land. The NES-CS includes requirements for contaminated land, including potential contamination caused by past land use. Resource consents may be required under the regulations.

The HAIL provides guidance on the industries and activities which typically use or have used or stored hazardous substances that, through improper management, could potentially cause contamination. If a council records or a preliminary site investigation indicates that a HAIL activity may have occurred, the NES CS applies.

As a new contaminant, PFAS was not previously recognised as a hazardous substance and as such not all activities that used PFAS will be identified on council HAIL registers. The HAIL registers are, however, likely to capture the majority of sites where activities involving PFAS were used. In time, the HAIL list and individual council registers' could require review.

There is no requirement for a private landowner to conduct testing of their own land or waterways for potential PFAS contamination, unless directed by a regulator or court. Councils' could, however, encourage landowners to identify sites as having a high likelihood of PFAS use or possible contamination.

A council enforcement officer can enter onto land where PFAS may have been discharged and conduct testing for the purpose of monitoring compliance with the RMA ([s.332 RMA](#)). If evidence of contamination is obtained, the council may apply to the Environment Court for an enforcement order requiring the landowner to carry out further detailed testing.

The council may be able to conduct testing on private land adjoining land where PFAS may have been discharged, and further afield, as part of a survey if it considers that a district or regional plan needs to be reviewed in light of contamination identified on land ([s.333 RMA](#)).