

Whereas the Minister of the Environment has been provided with information under either paragraph 87(1)(a) or (5)(a) of the *Canadian Environmental Protection Act, 1999*^a in respect of each substance referred to in the annexed Order;

Whereas, in respect of the substances being added to the *Domestic Substances List*^b pursuant to subsection 87(1) of that Act, the Minister of the Environment and the Minister of Health are satisfied that those substances have been manufactured in or imported into Canada, by the person who provided the information, in excess of the quantity prescribed under the *New Substances Notification Regulations (Chemicals and Polymers)*^c;

Whereas the period for assessing the information under section 83 of that Act has expired;

And whereas no conditions under paragraph 84(1)(a) of that Act in respect of the substances are in effect;

Therefore, the Minister of the Environment, pursuant to subsections 87(1), (3) and (5) of the *Canadian Environmental Protection Act, 1999*^a, makes the annexed *Order 2012-87-03-01 Amending the Domestic Substances List*.

Gatineau, **JUN 07**, 2012

REGISTRATION - ENREGISTREMENT	
NO. <u>SOR/2012-125</u>	DATE <u>June 14, 2012</u>
<u>Joanne H. Leal</u>	
A/ REGISTRAR OF STATUTORY INSTRUMENTS CANADA REGISTRAIRE DES TEXTES REGLEMENTAIRES	

^a S.C. 1999, c. 33

^b SOR/94-311

^c SOR/2005-247

ORDER 2012-87-03-01 AMENDING THE DOMESTIC SUBSTANCES LIST

AMENDMENTS

1. Part 1 of the *Domestic Substances List*¹ is amended by adding the following in numerical order:

26124-41-4 N-P

63143-38-4 N

67761-89-1 N-P

68683-40-9 N-P

552867-17-1 N-P

1229604-23-2 N

2. The portion of column 2 of Part 2 of the List, opposite the reference to the substance 68664-06-2 N-S in column 1, is replaced by the following:

Column 1	Column 2
Substance	Significant New Activity for which substance is subject to subsection 81(3) of the Act
68664-06-2 N-S	<p>1. Any activity involving the use of the substance Phosphonic acid, P-methyl-, diphenyl ester, polymer with 4,4'-(1-methylethylidene)bis[phenol] in Canada</p> <p>(a) in foams for mattresses and household upholstered furniture; or</p> <p>(b) in any other item intended for use by or for infants up to 18 months of age.</p> <p>2. For each proposed significant new activity, the following information must be provided to the Minister at least 90 days before the day on which the significant new activity begins:</p> <p>(a) a description of the significant new activity in relation to the substance;</p> <p>(b) the information specified in Schedule 9 to the <i>New Substances Notification Regulations (Chemicals and Polymers)</i>;</p> <p>(c) the information specified in item 5 of Schedule 10 to those Regulations;</p>

¹ SOR/94-311

Column 1	Column 2
Substance	Significant New Activity for which substance is subject to subsection 81(3) of the Act
	<p>(d) the test data from a repeated-dose mammalian toxicity test of the substance of at least 28 days duration, using the most significant route of potential human exposure to the substance, namely, oral, dermal or inhalation, including</p> <ul style="list-style-type: none">(i) the age, sex, number, species, strain and source of the animals tested,(ii) the route by which the substance is administered and the conditions under which the mammalian toxicity test is conducted,(iii) the dose of the substance, the vehicle by means of which the substance is administered and the concentration of the substance in that vehicle, and(iv) the test data from a functional observational battery conducted according to the methodology described in the Organisation for Economic Co-operation (“OECD”) Test Guideline for the Testing of Chemicals No. 424 titled <i>Neurotoxicity Study in Rodents</i>; <p>(e) the information specified in subitems 10(a) and (b) of Schedule 11 to those Regulations; and</p> <p>(f) all other information or test data concerning the substance that are in the possession of or accessible to the person who intends to use the substance for the significant new activity and that are relevant to determining whether the substance is toxic or capable of becoming toxic.</p> <p>3. The test described in paragraph 2(d) must be conducted in conformity with the laboratory practices described by the OECD in the “OECD Principles of Good Laboratory Practice”, set out in Annex II of the <i>OECD Decision of the Council Concerning the Mutual Acceptance of Data in the Assessment of Chemicals</i>, adopted by the OECD on May 12, 1981, and that are current at the time the test data are developed.</p> <p>4. The above information will be assessed within 90 days after the day on which it is received by the Minister.</p>

3. Part 3 of the List is amended by adding the following in numerical order:

18377-8 N

Terpenes and terpenoids, turpentine-oil, α -pinene fraction, polymers with adipic acid, alkanediol, 1,1'-methylenebis[4-isocyanatobenzene], phenol and polypropylene glycol

- Fraction α -pinène de terpènes et de terpénoïdes d'essence de térébenthine polymérisée avec de l'acide adipique, un alcanediol, du 1,1'-méthylènebis[4-isocyanatobenzène], du phénol et du poly(propane-1,2-diol)
- 18397-1 N Hexanedioic acid, polymer with α -hydro- ω -hydroxypoly[oxy(alkylenediyl)], 1,1'-methylenebis[4-isocyanatobenzene] and dihydroxydialkyl ether
- Acide adipique polymérisé avec de l' α -hydro- ω -hydroxypoly[oxy(alcane-1,2-diyle)], du 1,1'-méthylènebis[4-isocyanatobenzène] et du 2,2'-oxybis[éthanol]
- 18407-2 N-P *tert*-Decanoic acid, 2-oxiranylmethyl ester, polymer with alkyl 2-methyl-2-propenoate, ethenylbenzene, 2-hydroxymethyl 2-methyl-2-propenoate, 2-oxepanone, 2-propenoic acid and *rel*-(1*R*,2*R*,4*R*)-1,7,7-trimethylbicyclo[2.2.1]hept-2-yl 2-methyl-2-propenoate, *bis*-(1,1-dimethylpropyl) peroxide-initiated
- tert*-Décanoate d'oxiran-2-ylméthyle polymérisé avec un méthacrylate d'alkyle, du styrène, du méthacrylate de 2-hydroxyméthyle, de l'oxépan-2-one, de l'acide acrylique et du méthacrylate de *rel*-(1*R*,2*R*,4*R*)-1,7,7-triméthylbicyclo[2.2.1]hept-2-yle, amorcé avec du peroxyde de bis(2-méthylbutane-2-yle)
- 18412-7 N 1,3-Benzenedicarboxylic acid, polymer with alkanediol, 1,4-benzenedicarboxylic acid, 1,4-dimethyl 1,4-benzenedicarboxylate, 2,2-dimethyl-1,3-propanediol, dodecanedioic acid, 1,2-ethanediol, hexanedioic acid, 1,6-hexanediol, 3-hydroxy-2,2-dimethylpropyl 3-hydroxy-2,2-dimethylpropanoate and 1,1-methylenebis[4-isocyanatobenzene]
- Acide isophtalique polymérisé avec de l'acide téréphtalique, un alcanediol, du téréphtalate de diméthyle, du néopentanediol, de l'acide dodécanedioïque, de l'éthane-1,2-diol, de l'acide adipique, de l'hexane-1,6-diol, du 3-hydroxy-2,2-diméthylpropanoate de 3-hydroxy-2,2-diméthylpropyle et du 1,1-méthylènebis[4-isocyanatobenzène]
- 18413-8 N 1,3-Benzenedicarboxylic acid, polymer with alkanediol, 1,4-benzenedicarboxylic acid, 1,4-dimethyl 1,4-benzenedicarboxylate, 2,2-dimethyl-1,3-propanediol, dodecanedioic acid, 1,2-ethanediol, hexanedioic acid, 1,6-hexanediol, 3-hydroxy-2,2-dimethylpropyl 3-hydroxy-2,2-dimethylpropanoate, 1,1'-methylenebis[4-isocyanatobenzene] and 2-oxepanone
- Acide isophtalique polymérisé avec de l'acide téréphtalique, un alcanediol, du téréphtalate de diméthyle, du néopentanediol, de l'acide dodécanedioïque, de l'éthane-1,2-diol, de l'acide adipique, de l'hexane-1,6-diol, du 3-hydroxy-2,2-diméthylpropanoate de 3-hydroxy-2,2-diméthylpropyle, du 1,1'-méthylènebis[4-isocyanatobenzène] et de l'oxépan-2-one
- 18417-3 N Carbohydrate polymer with 2,5-furandione and 2-propenoic acid, sodium salt, hydrogen peroxide and peroxydisulfuric acid ($[(\text{HO})\text{S}(\text{O})_2]_2\text{O}_2$) sodium salt (1:2)-initiated

Polymère d'hydrates de carbone polymérisé avec de la furane-2,5-dione et de l'acrylate de sodium, amorcé avec de l'hydroperoxyde de sodium et du peroxydisulfate ($[(HO)S(O)_2]_2O_2$) de sodium (1/2)

18418-4 N

Carbohydrate polymer with 2,5-furandione, methyl 2-methyl-2-propenoate, 2-propenoic acid sodium 4-ethenylbenzenesulfonate (1:1) and sodium 2-methyl-2-[(1-oxo-2-propen-1-yl)amino]-1-propanesulfonate (1:1), sodium salt, hydrogen peroxide and peroxydisulfuric acid ($[(HO)S(O)_2]_2O_2$) sodium salt (1:2)-initiated

Polymère d'hydrates de carbone polymérisé avec de la furane-2,5-dione, du méthacrylate de méthyle, de l'acide acrylique, du 4-éthénylbenzènesulfonate de sodium (1/1) et du 2-méthyl-2-[(1-oxoprop-2-èn-1-yl)amino]propane-1-sulfonate de sodium (1/1), amorcé avec de l'hydroperoxyde de sodium et du peroxydisulfate ($[(HO)S(O)_2]_2O_2$) de sodium (1/2)

18419-5 N

Carbohydrate polymer with 1-methyl hydrogen (2Z)-2-butenedioate, 1,2-propanediol mono(2-methyl-2-propenoate) and 2-propenoic acid, ammonium salt, *tert*-Bu hydroperoxide-initiated

Polymère d'hydrates de carbone polymérisé avec du (2Z)-but-2-ènedioate de 1-méthyle, du monométhacrylate de 1-hydroxypropane-2-yle et de 2-hydroxypropane-1-yle et de l'acrylate d'ammonium, amorcé avec de l'hydroperoxyde de *tert*-butyle

COMING INTO FORCE

4. This Order comes into force on the day on which it is registered.

REGULATORY IMPACT ANALYSIS STATEMENT

1. Background

The Domestic Substances List

The *Domestic Substances List* (DSL) is a list of substances or living organisms that are considered “existing” for the purposes of the *Canadian Environmental Protection Act, 1999* (CEPA 1999). “New” substances or living organisms, which are not on the DSL, are subject to notification and assessment requirements before they can be manufactured in or imported into Canada. These requirements are set out in section 81 of CEPA 1999 or the *New Substances Notification Regulations (Chemicals and Polymers)* for substances and in section 106 of CEPA 1999 or the *New Substances Notification Regulations (Organisms)* for living organisms.

The DSL was published in *Canada Gazette*, Part II, in May 1994. From time to time, substances are added to, deleted from, or modified on the DSL. Substances or living organisms on the DSL are categorized based on certain criteria.¹

The Non-domestic Substances List

The *Non-domestic Substances List* (NDSL) is a list of substances subject to notification and assessment requirements when manufactured in or imported into Canada in quantities above 1,000 kg per year. Compared to the reporting requirements for a substance not listed on the DSL or the NDSL, there are fewer requirements for substances listed on the NDSL.

The NDSL is updated semi annually based on amendments to the United States Toxic Substances Control Act Inventory. Furthermore, the NDSL only applies to chemicals and polymers.

2. Issue

Fourteen substances have met the necessary conditions for addition to the DSL. These substances are currently considered “new” and are therefore subject to reporting requirements before they can be manufactured in or imported into Canada above threshold quantities. This has placed unnecessary burden on the importers and manufacturers of the substance since sufficient information has been collected for these substances and reporting is no longer required.

¹ The *Order 2001-87-04-01 Amending the Domestic Substances List* (SOR/2001-214), published in the *Canada Gazette*, Part II, in July 2001, establishes the structure of the DSL. For more information, please visit <http://www.gazette.gc.ca/archives/p2/2001/2001-07-04/pdf/g2-13514.pdf>.

The DSL also needs to be modified to reflect more accurate information on one substance.

3. Objectives

The objectives of *Order 2012-87-03-01 Amending the Domestic Substances List* (hereafter referred to as “the Order”) are to remove the unnecessary reporting burden associated with the import or manufacture of these 14 substances and to make the DSL more accurate.

4. Description

The Order adds 14 substances to the DSL and modifies the description of one substance identifier in Part 2 of the DSL. To protect confidential business information, 8 of the 14 substances being added to the DSL will have their chemical names masked.

Furthermore, as substances cannot be on both the DSL and the NDSL, the proposed *Order 2012-87-03-02* would delete four substances that are being added to the DSL from the NDSL.

Additions to the Domestic Substances List

The Order adds 14 substances to the DSL. Substances added under section 87 of CEPA 1999 must be added to the DSL within 120 days once all of the following conditions are met:

- the Minister has been provided with the most comprehensive package of information regarding the substance;²
- the substance has been manufactured in or imported into Canada above a quantity set out in paragraph 87(1)b) of CEPA 1999, or that all prescribed information has been provided to the Minister of the Environment, irrespective of the quantities;
- the period prescribed for the assessment of the submitted information for the substances has expired; and
- the substance is not subject to any conditions imposed on the import or manufacture of the substance.

Furthermore, where a substance is specified on the DSL, CEPA 1999 permits the Minister of Environment to indicate on the DSL that significant new activities provisions apply to the substance.

Modifications to the Domestic Substances List

² *The New Substances Notification Regulations (Chemicals and Polymers)* under CEPA 1999 set out the most comprehensive package of information requirements.

The Order modifies the description of one substance identifier in Part 2 of the DSL to make the information reflected by this identifier more accurate.

Publication of masked names

The Order masks the chemical names for 8 of the 14 substances being added to the DSL. Masked names are required by CEPA 1999 if the publication of the explicit chemical or biological name of a substance would result in the release of confidential business information in contravention of CEPA 1999. The procedure to be followed for creating a masked name is set out in the *Masked Name Regulations*. Anyone who wishes to determine if a substance is on the confidential portion of the DSL must file a *Notice of Bona Fide Intent to Manufacture or Import* with the New Substances program.

5. Consultation

As the Order is administrative in nature and does not contain any information that would be subject to comment or objection by the general public, no consultation was required.

6. Rationale

Fourteen “new” substances have met the necessary conditions to be placed on the DSL. The Order adds these 14 substances to the DSL, and exempts them from further reporting requirements under section 81 of CEPA 1999. In addition, the description of one substance identifier on the DSL has been modified to make the information more accurate.

CEPA 1999 sets out a process for updating the DSL in accordance with strict timelines. Since the 14 substances covered by the Order meet the criteria for addition to the DSL, no alternatives to their addition have been considered. Similarly, there is no alternative to the proposed NDSL amendments, since a substance name cannot be on both the DSL and the NDSL.

The Order will benefit the public and governments by identifying additional substances that are in commerce in Canada. Also, it will benefit the industry by exempting these substances from assessment and reporting requirements under subsection 81(1) of CEPA 1999. Furthermore, the Order will improve the accuracy of the DSL by making necessary modifications to the information for one substance. There will be no incremental costs to the public, industry or governments associated with the Order.

7. Implementation, enforcement and service standards

The DSL identifies substances that, for the purposes of CEPA 1999, are not subject to the requirements of the *New Substances Notification Regulations (Chemicals and Polymers)*. Furthermore, as the Order only adds substances to

the DSL, developing an implementation plan or a compliance strategy or establishing a service standard is not required

8. Contact

Greg Carreau
Acting Executive Director
Program Development and Engagement Division
Environment Canada
Gatineau, Quebec
K1A 0H3

Substances Management Information Line:

1-800-567-1999 (toll free in Canada)

819-953-7156 (outside of Canada)

Fax: 819-953-7155

Email: substances@ec.gc.ca