

# The new *Canadian Environmental Protection Act*

## The new CEPA and the Assessment of Existing Substances

### Further information:

#### Internet:

Additional information on the *Canadian Environmental Protection Act, 1999* is available on Environment Canada's Green Lane on the Internet at: [www.ec.gc.ca/cepa](http://www.ec.gc.ca/cepa)

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### What is an existing substance?

An existing substance is a substance that has been or is currently used in Canada as a commercial substance or product, or released as a single substance, an effluent, a mixture or a contaminant into the Canadian environment. This includes substances appearing on the Domestic Substances List.

### What are the main programs responsible for assessing existing substances under CEPA 1999?

More efficient processes for identifying, screening, assessing and managing toxic substances have been introduced in CEPA 1999. Two new measures are included in the Act — the Categorization and Screening of the Domestic Substances List (DSL) and the review of decisions of other jurisdictions.

The Priority Substances Assessment Program (PSAP) was initiated under CEPA 1988. In CEPA 1999, this program continues to play a key role, particularly when issues associated with substances are difficult and complex, and warrant a comprehensive assessment.

### What is the definition of CEPA “toxic”?

According to Section 64 of CEPA 1999, a substance is “toxic” if it is entering or may enter the environment in a quantity or concentration or under conditions that:

- (a) have or may have an immediate or long-term harmful effect on the environment or its biological diversity;

- (b) constitute or may constitute a danger to the environment on which life depends; or
- (c) constitute or may constitute a danger in Canada to human life or health.

Determining a substance to be CEPA “toxic” is therefore a function of its release into the environment, the resulting concentrations in environmental media, and its inherent toxicity.

### What is the Domestic Substances List (DSL)?

The DSL includes substances that were, between January 1, 1984, and December 31, 1986, in Canadian commerce, used for manufacturing purposes, or manufactured in or imported into Canada in a quantity of 100 kg or more in any calendar year. The List is regularly amended to include additional substances that become eligible following assessment under the New Substances Notification Regulations. The DSL currently contains approximately 23,000 substances.

### What are the categorization and screening of the DSL Program?

CEPA 1999 requires that **all substances on the DSL that have not been subject to notification and assessment as new substances** be categorized within seven years of Royal Assent, which occurred September 14, 1999.

The first phase of this Program, categorization, involves the systematic identification of substances on the DSL that

should be subject to screening level risk assessment. For this purpose, categorization is looking for substances that:

- 1) are inherently toxic, and display either of the characteristics of persistence (take a long time to break down) or bioaccumulation (collect in living organisms and end up in the food chain), or
- 2) may present to individuals in Canada the greatest potential for exposure.

The screening level risk assessment considers whether the substance is “toxic” or capable of becoming “toxic,” and may result in one of the following outcomes:

- no further action is taken;
- if the substance is not already listed, it could be added to the Priority Substances List under the Priority Substance Assessment Program; or
- a recommendation is made that the substance be added to the List of Toxic Substances (Schedule 1 of CEPA 1999).

### **What is the Program on Reviewing Decisions of other Jurisdictions?**

From time to time the Minister may be informed of a decision by another jurisdiction to prohibit or substantially restrict a substance for environmental or health reasons. Canadian provinces or territories and member countries of the Organization for Economic Co-operation and Development (OECD) are recognized as other jurisdictions under CEPA 1999. When the Minister receives such information, a review of the information supporting the decision is undertaken to ascertain whether it supports a determination that the substance is “toxic” or capable of becoming “toxic” in a Canadian context.

### **What is the Priority Substances Assessment Program?**

The Ministers of the Environment and Health are required to develop a list of substances that are given priority for assessment to determine whether they are “toxic” or capable of becoming “toxic” as defined

under Section 64 of CEPA 1999. This list is known as the Priority Substances List (PSL). The responsibility for assessing priority substances is shared by Environment Canada and Health Canada. These represent comprehensive assessments of all relevant aspects of a substance, and can involve information gathering and testing. CEPA is very prescriptive about the time available to complete assessments, including circumstances where testing is needed.

### **How many substances have been assessed under the Priority Substances Assessment Program?**

Assessments of the first 44 substances placed on the PSL (PSL1) were completed by February 1994. Following the recommendations of a multi-stakeholder Expert Advisory Panel, 25 substances were added to the PSL (PSL2) in December 1995. To meet CEPA’s timelines, assessment reports for all 25 PSL2 substances must be approved and published prior to December 16, 2000.

### **What happens when a substance is declared CEPA “toxic”?**

Substances that are declared “toxic” under CEPA 1999 are placed on Schedule 1 of the Act. They are then considered for risk management measures, such as regulations, guidelines or codes of practice to control any aspect of their life cycle, from the research and development stage through manufacture, use, storage, transport and ultimate disposal.

When a substance is determined to be “toxic” or capable of becoming “toxic,” and is persistent, bioaccumulative and results primarily from human activity, then it is proposed for virtual elimination under CEPA 1999.

Virtual elimination is the reduction of releases to the environment of the most dangerous toxic substances to a level below which these releases cannot be accurately measured.

