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Registration

SOR/2009-15 January 13, 2009

PERFLUOROOCTANE SULFONATE VIRTUAL ELIMINATION ACT

The Minister of the Environment and the Minister of Health, pursuant to subsection 3(1) of the *Perfluorooctane Sulfonate Virtual Elimination Act* ([see footnote a](#)), hereby make the annexed *Regulations Adding Perfluorooctane Sulfonate and Its Salts to the Virtual Elimination List*.

Ottawa, December 7, 2008

JIM PRENTICE
Minister of the Environment

Ottawa, January 9, 2009

LEONA AGLUKKAQ
Minister of Health

REGULATIONS ADDING PERFLUOROOCTANE SULFONATE AND ITS SALTS TO THE VIRTUAL ELIMINATION LIST

ADDITION

1. Perfluorooctane sulfonate and its salts are added to column 1 of the *Virtual Elimination List* ([see footnote 1](#)), compiled under subsection 65(2) of the *Canadian Environmental Protection Act, 1999* ([see footnote 2](#)).

COMING INTO FORCE

2. These Regulations come into force on the day on which they are registered.

REGULATORY IMPACT ANALYSIS STATEMENT

(This statement is not part of the Regulations.)

Issue and objectives

On April 17, 2008, the *Perfluorooctane Sulfonate Virtual Elimination Act* ([see footnote 3](#)) (the Act) received Royal Assent and became law. This Act requires the Ministers of the Environment and of Health to make a regulation to add perfluorooctane sulfonate (PFOS) and its salts to the *Virtual Elimination List* compiled under subsection 65(2) of the *Canadian Environmental Protection Act, 1999* (CEPA 1999) within nine months after the coming into force of the Act. While addition to the *Virtual Elimination List* compiled under CEPA 1999 requires the identification of the level of quantification and the publication of regulations prescribing the quantity or concentration of the substance that may be released into the environment, the Ministers are not required to do so under the Act.

The objective of the *Regulations Adding Perfluorooctane Sulfonate and Its Salts to the Virtual*

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the Government of
Requirements of the

Act. Hence, the Regulations add PFOS and its salts to the *Virtual Elimination List* compiled under CEPA 1999.

Description and rationale

Addition to the *Virtual Elimination List*

The Regulations add PFOS and its salts to the *Virtual Elimination List* compiled under subsection 65(2) of CEPA 1999, as required by subsection 3(1) of the Act.

The Ministers of Environment and of Health are required by the Act to finalize the addition of PFOS and its salts to the *Virtual Elimination List* of CEPA 1999. No other alternative is acceptable under the Act.

Background

Perfluorooctane sulfonates are not manufactured in or exported from Canada. However, in the past, they were typically imported as raw chemicals and in products and formulations. An Environment Canada use pattern survey undertaken in 2000 indicated that, from 1997 to 2000, an estimated 318 tonnes of PFOS was used in Canada. The primary uses of these substances were in applications involving water, oil, soil and grease repellents for fabric, leather, packaging and rugs and carpets, for both domestic and commercial use, and as additives in firefighting foams and paints and coatings. Between 2000 and 2002, the primary international manufacturer of PFOS voluntarily phased out its production of PFOS. The use trend in Canada, therefore, significantly dropped since 2002.

The screening assessment ([see footnote 4](#)) of PFOS concluded that these substances are entering the environment in a quantity or concentration or under conditions that have or may have an immediate or long-term harmful effect on the environment or its biological diversity. Furthermore, the assessment concluded that PFOS and its salts are persistent and a potential risk may occur through bioaccumulation and biomagnification of PFOS in wildlife. However, the human health screening assessment report concluded that current levels of exposure for PFOS are below levels which might affect human health.

Following the publication of the screening assessment of PFOS in 2004, a private member's bill was introduced in the House of Commons for adding PFOS and its salts to the *Virtual Elimination List* under CEPA 1999 in May 2006. At the same time as the bill was being considered by the House of Commons, a number of actions were taken by the Government of Canada to manage the risks associated with the use and the release of PFOS and its salts. These included:

- the publication of the final decision on the screening assessment of PFOS in the *Canada Gazette*, Part I, and the proposed recommendation that PFOS be added to the List of Toxic Substances in Schedule 1 of the CEPA 1999 on July 1, 2006;
- the publication of the final order adding PFOS to the List of Toxic Substances in Schedule 1 of CEPA 1999 in the *Canada Gazette*, Part II, on December 27, 2006;
- the announcement of the Chemicals Management Plan ([see footnote 5](#)) in December 2006, a key element of which involved taking immediate action on five substance categories, including PFOS; and
- the publication of the proposed *Perfluorooctane Sulfonate and its Salts and Certain Other Compounds Regulations* (hereinafter referred to as PFOS Regulations) in the *Canada Gazette*, Part I, on December 16, 2006. The PFOS Regulations were subsequently registered on May 29,

2008, and came into force on that date. The purpose of the PFOS Regulations is to prevent the risks posed to Canada's environment from the use and the release of PFOS, its salts and certain other compounds. The PFOS Regulations are a key element for the virtual elimination of these substances from the Canadian environment.

Subsequently, the private member's bill on PFOS passed the third reading in November 2007 and became the *Perfluorooctane Sulfonate Virtual Elimination Act* after receiving Royal Assent on April 17, 2008.

As a result of the voluntary phase-out of PFOS production, the current low level of PFOS imports, and the regulatory actions taken by the Government of Canada, the use and release of PFOS and its salts are being managed. By adding PFOS and its salts to the *Virtual Elimination List*, the Government of Canada is continuing to demonstrate its commitment to virtually eliminate the releases of PFOS to the Canadian environment.

Costs and benefits

The *Perfluorooctane Sulfonate Virtual Elimination Act* does not require any further management action that would include determining the lowest level of release or the development and implementation of regulations to virtually eliminate PFOS from the environment. Therefore, no incremental costs will be incurred by the Government, the industry or the public as a result of the addition of PFOS and its salts to the *Virtual Elimination List*.

Consultation

Although the *Perfluorooctane Sulfonate Virtual Elimination Act*—the authority under which these Regulations are made—contains no provisions requiring consultation, the opportunity to provide comments during a 30-day period was nevertheless provided following the publication of the proposed addition of PFOS and its salts to the *Virtual Elimination List* in the *Canada Gazette*, Part I. No written comments were received during this period.

Implementation, enforcement and service standards

The Regulations do not require any action from the interested stakeholders. Therefore, an implementation plan, compliance strategy, or service standard are not required.

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[Footnote a](#)

S.C. 2008, c. 13

[Footnote 1](#)

SOR/2006-298

[Footnote 2](#)

S.C. 1999, c. 33

[Footnote 3](#)

The full text of the Act may be obtained from the Department of Justice's Web page at <http://laws.justice.gc.ca/en/ShowFullDoc/cs/P-8.3///en>.

[Footnote 4](#)

The Screening Assessment Report for this substance is available on the CEPA Registry Web site at www.ec.gc.ca/CEPAREgistry/subs_list/assessments.cfm.

[Footnote 5](#)

More information on the Chemicals Management Plan is available on the following Web site: www.chemicalsubstanceschimiques.gc.ca/plan/index_e.html.

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