§ 37-0905. Chemicals of concern and high-priority chemicals.

1. Chemicals of concern.

(a) Within two years of the effective date of this title, the department, in consultation with the department of health, shall promulgate a list of chemicals of concern. A chemical may be listed as a chemical of concern if it has been identified by a government entity and/or identified on the basis of credible scientific evidence as being:

(i) a carcinogen, reproductive or developmental toxicant, neurotoxicant, asthmagen, or endocrine disruptor;

(ii) persistent, bioaccumulative and toxic; or

(iii) very persistent and very bioaccumulative.

(b) The department shall review lists codified or promulgated in other states as chemicals of concern to determine if such chemicals meet the criteria of paragraph (a) of this subdivision. The department at a minimum shall consider:

(i) 1,1,2,2-Tetrachloroethane (CAS 79-34-5)

(ii) 1,1,3,3-Tetramethyl-4-butylphenol; 4-tert-octylphenol (CAS 140-66-9)

(iii) 1,4-Dioxane (CAS 123-91-1)

(iv) 2,2',3,3',4,4',5,5',6,6'-Decabromodiphenyl ether; BDE-209 (CAS 1163-19-5)

(v) 2,4-Diaminotoluene (CAS 95-80-7)

(vi) 2-Aminotoluene (CAS 95-53-4)

(vii) 2-Ethylhexanoic acid (CAS 149-57-5)

(viii) 2-Ethyl-hexyl-2, 3, 4, 5 tetrabromobenzoate (TBB) (CAS 183658-27-7)

(ix) 2-Ethyl-hexyl-4-methoxycinnamate (CAS 5466-77-3)

(x) 2-Methoxyethanol (CAS 109-86-4)

(xi) 3,3'-Dimethylbenzidine and dyes metabolized to 3,3'-Dimethylbenzidine (CAS 119-93-7)

(xii) 4-Nonylphenol; 4-NP and its isomer mixtures including CAS 84852-15-3 and CAS 25154-52-3 (CAS 104-40-5)

(xiii) Acetaldehyde (CAS 75-07-0)

(xiv) Acrylonitrile (CAS 107-13-1)

(xv) Aniline (CAS 62-53-3)

(xvi) Antimony & antimony compounds (CAS 7440-36-0)

(xvii) Arsenic & arsenic compounds (CAS 7440-38-2) including arsenic trioxide & dimethyl arsenic (CAS 75-60-5)

(xviii) Asbestos (CAS 1332-21-4)

(xix) Benzene (CAS 71-43-2)

(xx) Benzene, pentachloro (CAS 608-93-5)

(xxi) Benzophenone-2 (BP-2); 2,2',4,4'-tetrahydroxybenzophenone (CAS 131-55-5)

(xxii) Bis(2-ethylhexyl) tetrabromophtalate (TBPH) (CAS 26040-51-7)

(xxiii) Bis(chloromethyl) propane-1-3-diyltetrakis-(2-chloroethyl) bis(phosphate)(V6)(CAS 38051-10-4)

(xxiv) Bisphenol A (CAS 80-05-7)

(xxv) Bisphenol F (CAS 620-92-8)

(xxvi) Bisphenol S (CAS 80-09-1)

(xxvii) Butyl benzyl phthalate (BBP) (CAS 85-68-7)

(xxviii) Butylated Hydroxyanisole; (BHA) (CAS 25013-16-5)

(xxix) C.I. solvent yellow 14 (CAS 842-07-9)

(xxx) Cadmium & cadmium compounds (CAS 7440-43-9)

(xxxi) Carbon disulfide (CAS 75-15-0)

(xxxii) Chlorinated paraffins (CAS 108171-26-2)

(xxxiii) Cobalt & cobalt compounds (CAS 7440-48-4)

(xxxiv) Decabromodiphenyl ethane (DBPE) (CAS 84852-53-9)

(xxxv) Di-2-ethylhexyl phthalate (CAS 117-81-7)

(xxxvi) Di-(2-methoxyethyl) phthalate (DMEP) (CAS 117-82-8)

(xxxvii) Dicyclohexyl phthalate (DCHP) (CAS 84-61-7)

(xxxviii) Diethyl phthalate (CAS 84-66-2)

(xxxix) Diisobutyl phthalate (DIBP) (CAS 84-69-5)

(xl) Di-n-hexyl phthalate (CAS 84-75-3)

(xli) Di-n-octyl phthalate (DNOP) (CAS 117-84-0)

(xlii) Dipentyl phthalate (DPP) (CAS 131-18-0)

(xliii) Ethylene glycol (CAS 107-21-1)

(xliv) Ethylene glycol monoethyl ester (CAS 110-80-5)

(xlv) Ethyl hexyl d-phenol phosphate (EHDPP) (CAS 1241-94-7)

(xlvi) Formaldehyde (CAS 50-0-0)

(xlvii) Hexabromocyclododecane (HBCD) (CAS 25637-99-4)

(xlviii) Hexachlorobenzene (CAS 118-74-1)

(xlix) Hexachlorobutadiene (CAS 87-68-3)

(l) Isopropylated triphenyl phosphate (IPTPP) (CAS 68437-41-7)

(li) Mercury & mercury compounds (CAS 7439-97-6) including methyl mercury (CAS 22967-92-6)

(lii) Methyl ethyl ketone (CAS 78-93-3)

(liii) Methyl paraben (CAS 99-76-3)

(liv) Methylene chloride (CAS 75-09-2)

(lv) N-methylpyrrolidone (CAS 872-50-4)

(lvi) Nickel and nickel compounds (CAS N/A)

(lvii) N-nitrosodimethylamine (CAS 62-75-9)

(lviii) N-nitrosodiphenylamine (CAS 86-30-6)

(lvix) Perchloroethylene (CAS 127-18-4)

(lx) Perfluorooctanoic acid (PFOA & related substances) (CAS 335-67-1)

(lxi) Perfluorooctanyl sulphonic acid and its salts (PFOS) (CAS 1763-23-1)

(lxii) Phenol (CAS 108-95-2)

(lxiii) Phenol, 4-octyl- (CAS 1806-26-4)

(lxiv) P-hydroxybenzoic acid (CAS 99-96-7)

(lxv) Propyl paraben (CAS 94-13-3)

(lxvi) Styrene (CAS 100-42-5)

(lxvii) Tetrabromobisphenol A (CAS 79-94-7)

(lxviii)Tetrachloroethene (CAS 127-18-4)

(lxix) Toluene (CAS 108-88-3)

(lxx) Tricresyl phosphate (TCP) (CAS 1330-78-5)

(lxxi) Tri-n-butyl phosphate (TNBP) (CAS 126-73-8)

(lxxii) Triphenyl phosphate (TPP) (CAS 115-86-6)

(lxxiii) Tris(1-chloro-2-propyl) phosphate (TCPP) (CAS 13674-84-5)

(lxxiv) Tris(2-chloroethyl) phosphate (CAS 115-96-8)

(lxxv) Tris(2,3-dibromopropylphosphate) (CAS 126-72-7)

(lxxvi) Vinyl chloride (CAS 75-01-4)

(lxxvii) Organohalogen flame retardants

(c) The department, in consultation with the department of health, shall periodically review the list of chemicals of concern and may through regulation add or remove a chemical from the list on the basis of credible scientific evidence. The department may remove a chemical from the list of chemicals of concern if, upon review, it determines on the basis of credible scientific evidence that such chemical no longer meets the criteria for listing under paragraph (a) of this subdivision.

2. High-priority chemicals. (a) The following chemicals are designated high priority chemicals for purposes of this title:

(i) Tris (1, 3 dichloro-2-propyl) phosphate (CAS 13674-87-8)

(ii) Benzene (CAS 71-43-2)

(iii) Mercury and mercury compounds, including methyl mercury (CAS 7439-97-6)

(iv) Asbestos (CAS 1332-21-4)

(v) Arsenic and arsenic compounds (CAS 7440-38-2) including arsenic trioxide (CASRN 1327-53-3) and dimethyl arsenic (CASRN 75-60-5)

(vi) Cadmium (CAS 7440-43-9) (other than toy coatings)

(vii) Organohalogen flame retardants in upholstered bedding or furniture

(b) The department shall periodically review the list of high priority chemicals and may by rule add to the list of high-priority chemicals if the criteria of paragraph (a) of subdivision one of this section are met and the chemical is present in a children's product and meets any of the following criteria:

(i) The chemical or its metabolites have been found through biomonitoring to be present in humans;

(ii) The chemical has been found through sampling and analysis to be present in household dust, indoor air, drinking water or elsewhere in the home environment;

(iii) The chemical has been found through monitoring to be present in fish, wildlife or the natural environment; or

(iv) The sale or use of the chemical or a children's product containing the chemical has been banned in another state or states within the United States because of the health effects of such chemical or the children's product safety council established pursuant to section 37-0911 of this title has recommended the chemical be listed as a high-priority chemical. The department shall, as part of its periodic review, consider whether the sale or use of a chemical or a children's product containing the chemical has been banned in another state or within the United States because of the health effects of such chemical.

(c) The department, in consultation with the department of health, may remove a chemical from the list of high priority chemicals if it determines on the basis of credible scientific evidence that such chemical no longer meets the criteria of paragraph (b) of this

subdivision.