A Response to *Canada Gazette* Part I, Vol. 144, No. 5 — January 30, 2010: NGO comments on Draft Assessment and Risk Management Scope for selected substances in Batch 8 of the Industry Challenge of the Chemicals Management Plan

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Introduction

The Canadian Environmental Law Association (CELA) and Chemical Sensitivities Manitoba (CSM) are submitting the following comments in response to the *Canada Gazette,* Part I, Vol. 144, No. 5 – January 30, 2010 release of the draft assessment and risk management scope documents for selected substances identified under the Chemicals Management Plan (CMP), Batch 8 of the Industry Challenge.

CELA (www.cela.ca) is a non-profit, public interest organization established in 1970 to use existing laws to protect the environment and to advocate for environmental law reform. It is also a legal aid clinic that provides legal services to citizens or citizens' groups who are otherwise unable to afford legal assistance. In addition, CELA also undertakes substantive environmental policy and legislation reform activities in the areas of access to justice, pollution and health, water sustainability and land use issues since its inception. Under its pollution and health program, CELA has been actively involved in matters that promote the prevention and elimination of toxic chemicals addressed in the *Canadian Environmental Protection Act*, including the categorization process and implementation of the CMP.

Chemical Sensitivities Manitoba (CSM), a volunteer organization, was founded in 1997 by four individuals who saw the need to address the affects of toxic chemicals on human health and the possible link between the onset of chemical sensitivities and chemical exposure and, in particular, chronic low-level exposure. CSM raises awareness of the presence of toxic chemicals in the home and the environment and strongly advocates for the safe substitution of these toxins.

Our respective organizations along with other Canadian environmental and health non-governmental organizations (NGOs) have submitted substantial comments on assessment results and proposed management options for substances in Batches 1 through 7, including the final assessments and draft risk management options for Batch 1 to 6.

For these batches, our organizations supported some of the proposed assessment results but, at the same time, have elaborated on the gaps and limitations on specific aspects of the risk assessment and the proposed management instruments for specific chemicals. Consequently, we have developed substantial recommendations to address these gaps and limitations.

Background

In this submission, we have provided commentary to the draft risk assessment and risk management scope documents on the two substances listed in Table 1, which have been found to be CEPA toxic. We have also outlined the gaps and concerns we have with the government assessment on four other substances

that have been proposed for the SNAc provision under section 83(1) of the *Canadian Environmental Protection Act*. Based on these gaps, we encourage your departments to reconsider the findings of the relevant draft screening assessments and change your decision on these substances. Despite knowledge gathered through the Industry Challenge to suggest that these substances are not in use in the Canadian market at quantities above 100 kg, we urge the government to conclude that these chemical meet the criteria for CEPA toxic based on their initial findings of persistence, bioaccumulative and inherent toxicity (PBiT) through the categorization process.

The lack of specific commentary on all substances in Batch 8 should not be assumed that our organizations do not have questions or concerns regarding the draft assessment results and approach. Many of the comments we provided on the assessments and risk management proposals for the first seven batches released under CMP contain commentaries that are also relevant for the chemicals listed in Batch 8. These comments are intended to provide your departments with a broad understanding of the public interest expectations of the government to protect Canadians and their environment from toxic chemicals. It is our view that the issues and gaps on which we continue to elaborate in these submissions have not been substantially addressed through the current government approach. The lack of response to the on-going issues has resulted in very few regulatory actions aimed to eliminate chemicals of concern.

Through these submissions, our organizations want to ensure that the government utilizes the full extent of its authority under *CEPA 1999* to promote and implement the elimination or phase out of the most toxic substances found in the Canadian market. The commentary below identifies areas in the assessment report where government should strengthen its approach on the conclusion of toxicity under CEPA for chemicals selected.

Comments and Recommendations

Table I: Final results of Categorization, Screening Level Risk Assessment (SLRA) & Risk Management Scope for selected Batch 8 substances of the Chemicals Management Plan (CMP), Challenge Program

Substance name & CAS RN	**Results of Categorization (S. 73)**	**Decisions based on draft screening level risk assessment**	**Key human health concerns - (SLRA)**	**Risk management scope document & applicable details of proposed measures**	**Uses and** **Volume (kg)**
Phenol, 2,6-bis(1,1-dimethylethyl)-4-(1-methylpropyl)- (DTBSBP) 17540-75-9	P, B, iT	P, B, iT Meets the criterion for S. 64(a) under CEPA 1999.	N/A	Add DTBSBP to the List of Toxic Substances in Schedule 1. Propose virtual elimination. To develop preventive or control actions for human heath and the environment. **Note:** Request to stakeholders by the government for additional data to address data uncertainties and help inform decision making.	Not manufactured over 100 kg. 2006 – imports between 1,000 – 100,000 kg/year. Imports to Canada – 16,686 kg High production volume (HPV) chemical in the U.S. Uses: PVC, polyols used in polyurethane, food industry, brake fluids, ink resins, petrochemical industry, lubricants and oils. Consumer products are included. Confidential business information (CBI) for some uses.
Methylium, [4-(dimethylamino)phenyl]bis[4-(ethylamino)-3-methylphenyl]-, acetate MAPBAP acetate 72102-55-7	P, B, iT	P Meets some criteria for toxicity under S 64 CEPA 1999.	Potential human health concerns Mixed predictions for carcinogenicity, genotoxicity and	Addition of MAPBAP acetate to the List of Toxic Substances in Schedule 1. No consideration for virtual elimination. It will be managed through a life-cycle	Colourant – pigment/stain/ dye/ink. Confidential business information cited for other uses.

			developmental toxicity. QSAR modeling of potential analogues: possible carcinogen or developmental toxicity.	approach to prevent or minimize releases to the environment.	

DTBSBP – CAS RN 17540-75-9

DTBSBP is a HPV chemical in the U.S. and the OECD and is on the Oslo-Paris (OSPAR) Commission's list as a substance of possible concern. In Canada, there was no reported manufacturing of this substance over the 100 kg threshold but approximately 17, 000 kg of the substance were imported into Canada in 2006, by five companies.

DTBSBP belongs to the chemical family of substances referred to alkylphenols, which are commonly used as anti-oxidants and chemical intermediates. Some of these will be assessed in an upcoming phase of the Chemicals Management Plan. The government has requested that stakeholders identify the possibility of potential alternatives to DTBSBP that would be classified as a member of the alkylphenols category. No response to this request was received.

The assessment report for DTBSBP included many data gaps. For example, analogues were used to address the data gaps for persistence and bioaccumulation factors. Moreover, there was considerable uncertainty and a lack of data regarding exposure estimations of DTBSBP from consumer products, environmental media and dietary uptake. Given its potential to be persistent, bioaccumulative, and inherently toxic, and the need for informed decision-making, the government should seek additional data from industry to address the data uncertainties. Such uncertainties will affect the type of management options used to address this chemical. The specific information gaps have been outlined in the government's Risk Management Scope Document for this substance.

The findings of the assessment would be better supported if additional data were gathered. For example we recommend the following:

- Rather than rely on analogues which have strong structural similarity to DTBSBP, the government should require more empirical physical data particularly when this data will be used for modeling.
- Consideration of mixtures of chemicals in the assessment reports, since DTBSBP is used extensively in consumer products. For example, when used in

polyurethane foam for bedding and furniture, there may be the presence of other harmful chemicals in the foam such as flame retardants which are also toxic under CEPA. These mixtures of chemicals in consumer products are not considered in the assessment. Further investigation is highly recommended to determine the synergistic and cumulative impacts of these mixtures of chemicals – both to human health and the environment.

- Based on data collected, DTBSBP is imported into Canada and used extensively in industrial applications and consumer products. The assessment efforts should consider the impacts to the environment and human health in a full life cycle approach. The fate of this chemical has not been fully explained with respect to the determination and identification of breakdown products that may be produced throughout the industrial processes, the recycling processes and other disposal methods (i.e. landfills).
- Improved exposure assessment is warranted particularly since the report suggested that DTBSBP can partition to soil and sediment. Exposure data that determines the predicted environmental concentration (PEC) should be undertaken to elucidate the effects on non-aquatic organisms.
- Seek chronic toxicity data which are currently not included in the assessment report.
- Require and include the toxicity of DTBSBP to vulnerable populations such as children, workers, aboriginal communities, people with chemical sensitivities and people of low income.

The use of modeling to determine the potential for long range transport of DTBSBP is helpful to fill in data gaps given its high and extensive use in commercial and consumer products in Canada. However, the resulting modeled data cannot always confirm that this chemical does not end up in environments where there are no known sources of emissions. In the assessment report, the lack of monitoring data or information on the behaviour of this chemical in varying climates, contributes to the level of the uncertainty of the impact this chemical and others within this chemical family may exert on the environment. The results presented regarding the potential for long range transport cannot confirm that this chemical has not been found in environments distant from the origin of use. Since this chemical is considered to be PBiT, it is expected to remain in the environment for long periods and should be managed appropriately. The use of modeling to determine the potential for long range transport should be accompanied by environmental monitoring such as sampling of sediment and wildlife populations at various distances from a use facility.

Recommendations:

1) We support the finding that DTBSBP is a PBiT chemical and should be designated CEPA toxic.

2) We support the recommendation that DTBSBP be added to the List of Toxic Substances (Schedule 1) of CEPA.

3) We support the recommendation that DTBSBP be proposed for virtual elimination under CEPA 1999. However, the goal of virtual elimination should be zero discharge and zero use rather than simply “eliminating the release from this substance to the environment.” This can be achieved by applying preventative measures that promote the elimination of this substance from Canadian commerce.

4) We urge the government to require industry to submit additional data that will support the elimination of DTBSBP, including the need to seek additional data that would include chronic toxicity, and the fate of the chemical throughout its life cycle. There is an urgent need to identify all break-down products that can be produced or released during industrial processes, recycling and other disposal methods.

5) The claims for CBIs on use and volume of chemicals should be reviewed with an aim to reduce claims for CBIs. The citing of confidential business information (CBI) for some applications of DTBSBP presents a problem as stakeholders are not able to appropriately comment on this substance without access to that information. CBI restrictions should be reconsidered by the government when there are public health and environmental impacts.

MAPBAP acetate - CAS RN 72102-55-7

MAPBAP acetate is reported as being used as a dye in paper. Other uses are protected under confidential business information (CBI) provisions. With a wide range (1,000 to 1,000, 000 kg) of imports into Canada per year and the distinct possibility that this chemical is used in paper imported into Canada, we are expressing our concern about the accuracy of data on the releases of this chemical to the environment. These releases will most likely be underestimated without accurate information on the amount of paper containing this chemical that is annually imported into Canada.

Currently, the assessment report provides information on the estimated releases of this chemical to air, water, soil or transfers to waste management facilities; including aquatic monitoring at 11 industrial sites. The monitoring information gathered for MAPBAP acetate were site-specific and revealed its presence in the aquatic environment. The calculated risk quotient ranged from 0.9 to 32.8 with 10 out of the 11 industrial sites exceeding 1. Based on this information, the government made the appropriate assumption that this chemical could be causing “ecological harm in Canada.” These results focused on only 11 sites and we are concerned about how relevant these findings may be for all of Canada. Because of this limited data, careful consideration should be taken in the development of measurement options.

The assessment results demonstrate that MAPBAP acetate meets the criteria for persistence in water, soil and sediment, and is potentially toxic to aquatic

organisms. However, its potential for soil- and sediment-dwelling organism toxicity was suggested to be low (because of its properties and the lack of available data). The bioaccumulation potential for MAPBAP acetate was estimated as being low.

The need to address data gaps for this substance remains high. The failure of the Industry Challenge to generate relevant data from stakeholders means that the original uncertainties about this chemical's impact on the environment and human health have not been reduced. Therefore, in light of these uncertainties, the government approach should focus on applying the precautionary principle.

The assessment report indicated that "the confidence in the toxicity database is considered to be low due to the lack of available data for MAPBAP acetate." That being said, we support the government's conclusion that this chemical has potential health impacts. Government should ensure that there are aggressive measures in place to address the potential hazards presented by this chemical. Concerns around the low confidence in toxicity data for carcinogencity, reproductive toxicity and genotoxicity, should not result in weak management proposals. Rather, due to uncertainty, there is a greater need to prevent the continued exposure of the Canadian public and environment to this chemical.

A significant issue related to the use of MAPBAP acetate is the uncertainty about the level of releases to the environment from the production and disposal of paper and other paper products, as well as other unknown produced products not listed because of CBI. There are significant health implications from MAPBAP acetate based on its potential carcinogenicity, genotoxicity and developmental toxicity. Unfortunately, the assessment report does not provide adequate explanation of how these uncertainties have influenced the decision-making process for the management of this chemical.

Recommendations:

1) Based on its properties and widespread use, we recommend that MAPBAP acetate be designated as CEPA toxic.

2) We support the recommendation that MAPBAP acetate be added to the List of Toxic Substances (Schedule 1) of CEPA.

3) Based on the potential human health impacts of this chemical such as carcinogenicity, genotoxicity, and developmental toxicity, as well as its extensive application in the paper sector, we urge the government to phase out the use of MAPBAP acetate. This approach should target industrial applications and the use of MAPBAP acetate in consumer products, including imports.

4) To improve the quality of the assessment report for MAPBAP, the government should use CEPA 1999 to the full extent to require information from stakeholders to fill existing data gaps. Information to be gathered include:

- The quantities of MAPBAP acetate in products imported to Canada, with particular emphasis on paper and paper products.
- Identification of all potential uses for this substance.
- Improved hazard data that would rely on the generation and use of experimental data for MAPBAP acetate. This is required so that there could be a more accurate reflection of bioaccumulation.
- Investigation on the level of toxicity to soil and sediments that may receive biosludge products that contain MAPBAP acetate and similar substances. There are on-going concerns that have not been covered in the assessment report, including toxicity to soil and sediment living organisms.
- The level of MAPBAP acetate used as dyes that have the potential to be adsorbed to waste and eventually end up in water treatment plant sludge, which may be subsequently applied to agricultural lands. There is a need to further investigate soil/sediment toxicity data for this substance.
- Identification and consideration of all by-products of MAPBAP acetate in the scope of the assessment report, with a focus on waste disposal sites and other disposal methods.
- Since MAPBAP acetate is persistent in water and is capable of being ionized in water, there is a need to establish if any metabolites from this product have toxic properties.

5) We urge the government to review CBI requests for basic toxicity and use data. The lack of access to information being protected under confidential business information (CBI) provisions results in a significant obstacle for stakeholders' ability to respond effectively to the decisions made by government on this and other substances under similar CBI provisions. In some cases, claims made under CBI may not be adequately warranted. The government should review CBI provisions to improve the level of accountability by industry to provide information that is fundamental for these assessments.

Application of Significant New Activity for selected chemicals under Batch 8

We would like to provide the following commentary on the government's proposal to apply Significant New Activity (SNAcs) on four chemicals from Batch 8:

- CAS No. 626-39-1: Benzene, 1,3,5-tribromo-;
- CAS RN 944-61-6: Benzene, 1,2,3,4-tetrachloro-5,6-dimethoxy-;
- CAS RN 65140-91-2: Phosphonic acid, [[3,5-bis(1,1-dimethylethyl)-4-hydroxyphenyl]methyl]-, monoethyl ester, calcium salt (2:1)
- CAS RN 68551-44-0: Fatty acids, C6-19-branched, zinc salt

We have previously made very specific comments on the inappropriate use of SNAcs for Batch 6 chemicals[1] and other chemicals assessed under the Industry Challenge of the Chemicals Management Plan. We have submitted in a letter dated March 10, 2010 (attached) which outlines our concerns on the use of SNAcs and other risk management activities under the CMP.

We note these concerns again:

a) Toxic under CEPA 1999: These substances should be considered toxic under CEPA despite evidence that they are not in use in Canada and lacking other data (uses, volume, historical data) submitted by industry through the application of Section 71 of the Act. By designating these substances toxic under CEPA, a signal would be sent to any other potential users and importers that these chemicals are toxic and should not be permitted re-entry into the Canadian market. Government could use other tools under CEPA to ensure that future uses of these substances are not permitted in Canada, such as adding these substances to the *Prohibition of Certain Toxic Substances Regulation*. The application of SNAc provisions as proposed by government has limits and could not guarantee that these substances would be prohibited from future use in Canada.

b) Reporting threshold of 100kg: With the reporting threshold for the s. 71 survey set at 100 kg/year, the surveys conducted cannot account for the number of possible users that fall below the threshold and who are not required to report to the surveys. The aggregate use of these chemicals has not been addressed and this raises significant concerns as to the legitimacy of applying SNAcs to manage these chemicals. We view the application of the 100 kg threshold for reporting as a gap in the government approach.

c) Assessment under Schedule 6 of NSN – lack consideration of adequate chronic toxicity and other hazard data: The application of SNAcs is inappropriate for these high priority chemicals as it does not result in a preventative approach but rather a 'wait and see' approach. SNAc application will not guarantee that the Canadian environment and human populations will not be exposed to these substances in the future, despite the requirements by future notifiers to fulfill requirements outlined under Schedule 6 of the New Substances Notification Regulations (NSNR). The schedule outlined in the New Substances Notification Regulations is not sufficiently comprehensive with its call for toxicity data to address existing substances identified for SNAcs. The list of toxicity data is minimal as notifiers will **not** be required to submit data for chronic toxicity, endocrine disruption, or neurodevelopmental toxicity. The government should

[1] See CELA and CSM. "A Response to the Proposed Risk Management Approach for Chemicals Management Plan Industry Challenge Batch 6 Substances Published in Canada Gazette Part I, Vol. 143, No. 22— May 30, 2009." 2009. Accessed at http://s.cela.ca/files/661_CMP_CELA_and_CSM_batch_6_SLRA%20final.pdf.

ensure that notifiers interested in re-introducing these substances are required to demonstrate that these chemicals do not result in such health impacts. Even at a low volume usage, it is our view that revisions to the New Substances program are necessary to accommodate the future assessment of chemicals that are listed under the DSL and found to meet the criteria outlined for categorization. The level of accountability for users, importers and manufacturers to provide data for assessment should be at the highest level before due consideration of use is given by government on these substances. This should include requiring data that are not currently required under the proposed Schedule.

d) Lack of public comment under NSN regulations: Finally, we have an on-going concern that the application of SNAcs on these substances will mean that the public will not have opportunities to engage in the assessment process as any subsequent assessments under the NSN regulations do not include such a provision. The public should have access to this process, particularly as it has now been expanded to address substances that were originally on the DSL.

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ATTACHMENT:

March 10, 2010

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Dear Margaret and Karen:

Re: Risk Management under the CMP

This letter addresses the concerns of several environmental non-governmental organizations [ENGOs] dedicated to the protection of human health and the environment about the risk management activities proposed to date by Environment Canada and Health Canada under the Chemicals Management Plan (CMP). We appreciate having been invited to participate in the Risk Management Workshop held in Ottawa on October 29, 2009, which we found informative. However, it did not allow for discussion of several specific points of concern to ENGOs. Since many ENGOs present at the workshop have provided detailed comments on proposed risk management approaches for Batches 1-6 substances, we expected an opportunity for a substantial discussion of some of these points. Thus, this letter details our concerns and recommendations for improving risk management activities under the CMP, as well as our recommendations for future workshops and consultations on risk management work under the CMP. All are very important to us, and they are not listed in order of priority.

We base our recommendations on the following key principles outlined in the *Canadian Environmental Protection Act 1999* (CEPA):

- Pollution Prevention
- Virtual Elimination
- Precautionary principle

Risk management work is at a relatively early stage under the CMP, and there is time to refine approaches and actions in order to achieve greater transparency and a higher level of protection for the environment and human health. We hope you will give our recommendations serious consideration, and that you will be willing to engage with us about them in future consultations.

1) Little Emphasis on Pollution Prevention Strategies

In the batches that have come through to date, we see little emphasis on an overall goal of elimination of toxic chemicals. This would include a focus on reduction or elimination at source - that is, eliminating or at least reducing the importation, manufacture and use of chemicals found to be toxic under the plan, as well as products containing them. This is the only sure way of protecting human health and the environment from the harmful effects of these substances, especially in the context of uncertainty about hazard and exposure. While other mechanisms, such as end-of-pipe control measures, future use notification (please see point 2, below), addition to the Cosmetic Ingredient Hot List, monitoring and biomonitoring, may have some role to play, these alone do not adequately address the hazards and risks posed by these substances, especially in the case of carcinogenic, reproductive, developmental, endocrine disrupting or neurodevelopmental toxins. The options presented to date generally aim to maintain the status quo in the use of these substances, or to lead to slight reductions in releases to the environment. They do not address the real problem, which is the production, sale and use of toxic substances.

The federal government is committed, under CEPA, to apply several key principles when addressing toxic chemicals, including pollution prevention, virtual elimination and the use of the precautionary principle. There are several tools available to the government to manage toxic chemicals in accordance with these principles that have not been used in developing the risk management measures proposed to date, including pollution prevention plans to identify opportunities for source elimination of chemicals, identifying safe substitutes, and removing inefficiencies in industrial processes. The federal government made a clear commitment to pollution prevention in its management of toxic chemicals through its federal pollution prevention strategy, released in 1995.[2] This strategy has been disregarded in the CMP to date. In the Industry Challenge, we have seen very few pollution prevention proposals, with the exception of those proposed for bisphenol A and TDI and the addition of several toxic chemicals to the Cosmetic Ingredients Hotlist, a non-regulatory measure whose efficacy in protecting human health is not clear.

In the presentations made at the October 29, 2009 workshop, we gained very little insight into the triggers necessary for Environment Canada (EC) and Health Canada (HC) to propose reduction and elimination strategies. We understand the criteria necessary for virtual elimination under CEPA, but many other actions that would promote reduction and phase-out could be taken that would result in real benefits for human health and the environment, such as expanded use of the *Prohibition of Specific Toxic Chemicals Regulations*, and other mandatory pollution prevention efforts that have not been employed under the CMP. One example would be to amend the list chemicals for prohibition under the Prohibition of Specific Toxic Chemicals Regulations to include Bisphenol A, which has been targeted for specific regulatory actions (e.g. ban of BPA in baby bottles, regulation to establish maximum concentration limit) but is used in a wide range of consumer products, has many industrial applications and has been detected in the environment.

[2] Environment Canada, *Pollution Prevention: A Federal Strategy for Action.* 1995.

Furthermore, the recent grant of $9.1 million from the federal government towards the establishment of a National Centre of Excellence at Queen's University for the "development and commercialization of Green Chemistry technologies"[3] is promising with respect to finding substitutes and alternative manufacturing processes that reduce or eliminate the use of toxic chemicals. However, there has been no substantial policy dialogue or commitment to date focused on developing safe alternatives to further pollution prevention or a federal toxic chemical substitution and green chemistry strategy linked to the CMP. We would appreciate the opportunity for a fuller discussion of this point.

Our overall concern is that to this point, very little regulatory action has been proposed for high priority substances found to be toxic, with the exception of bisphenol A. This does not provide sufficient assurance that the CMP will result in the elimination or significant reduction in manufacture, import, export, use, release, and disposal of these chemicals over time in industrial applications as well as consumer products. Looking to the future, if effective actions that are based on prevention and precaution are not undertaken in an aggressive manner for the **high priority** chemicals under the Challenge program, we question whether the challenges of managing the 2600 **medium priority** chemicals will be addressed adequately either.

Recommendation: We urge the government to shift its current approach under the CMP to pollution prevention measures that will eliminate or significantly reduce the manufacture, import, export, use, release, or disposal of toxic chemicals over time.

Recommendation: We urge the government to develop a federal toxic chemical substitution and green chemistry strategy linked to the CMP.

2) Future Use Notification

Ten high priority substances determined to be CEPA toxic in Batches 1-5 of the Challenge phase of the CMP list "future use notification" as a proposed risk management activity. (See the Appendix to the workshop presentation "Risk Management Under the Chemicals Management Plan: Presentation for Stakeholders.") It is our view that future use notification should not be considered an appropriate tool for managing chemicals found to be CEPA toxic.

a) Little information provided on future use notification:

We are concerned that this risk management tool is being proposed with little information concerning what it will involve. The absence of information on this proposal does not contribute to improved government transparency.

[3] Queen's News Centre Press Release, "Queen's PARTEQ receives $9.1 M for National Centre of Excellence." http://qnc.queensu.ca/story_loader.php?id=49a824b1d4eb8.

b) Absence of reduction or elimination measures for CEPA toxic chemicals.

Given what little we do know, future use notification appears to allow continued and even increased use of a toxic chemical as long as new uses are notified. Thus, it appears to retain the "status quo" or "business as usual" for CEPA toxic chemicals. Future use notification will not reduce exposure to these chemicals in Canada and it will not work toward achieving the risk management objectives outlined for them in their respective proposed risk management approach documents. For example, the *Proposed Risk Management Approach* for diethyl sulfate[4] states:

> A risk management objective is a target expected to be achieved for a given substance by the implementation of risk management regulations, instrument(s) and/or tool(s). The proposed risk management objective for diethyl sulfate is to minimize exposure to this substance.
>
> In order to achieve the risk management objective and to work towards achieving the environmental or human health objective(s), the risk management being considered for diethyl sulfate is a requirement for notification of the federal government regarding any proposed future uses (p. 11).

It is clear that there is a gap between the proposed risk management objective (i.e. minimizing exposure to the substance) and the instrument being proposed to achieve it (i.e. the requirement for notification of proposed future uses). Future use notification will do nothing to reduce exposure to diethyl sulphate if the current level of use is not reduced or eliminated. At best, it may prevent exposure from increasing, and it will not necessarily even do that, given that no restrictions on current uses appear to be contemplated (other than addition to the Cosmetic Ingredient Hotlist in some cases).

c) Cumulative impacts of toxic chemicals continue to go unaddressed.

An on-going issue raised by public interest organizations is the lack of consideration of the cumulative and aggregate impacts of many chemicals in the Canadian market. The future use notification proposal will do little to make progress in this area. Many notification processes establish a threshold level at which notification may be required. If this is the case for future use notification, the aggregation of use amounts that fall under the threshold may constitute a significant total amount, which in turn may mean that exposure estimates are significantly too low.

The following list summarizes a few of our concerns with respect to future use notification, especially its use exclusive of any other risk management activities:

- These notifications appear to do nothing to work toward the elimination or reduction in use of the chemicals in question. It is problematic that significant

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[4] Government of Canada, *Proposed Risk Management Approach for Sulfuric Acid, Diethyl Ester (Diethyl Sulfate)*, August, 2009. http://www.ec.gc.ca/substances/ese/eng/challenge/batch4/batch4_64-67-5_rm_en.pdf.

increases in use quantities (as opposed to new uses) do not have to be reported under this provision.

- There is no responsibility placed on industry to change processes, look for safer substitutes or report on releases, transfers or use quantities of these chemicals (unless this information is required under NPRI or DSL inventory updates).
- There are no projected reduction targets established by government.
- There is often a volume threshold below which notification is not required. This threshold, whatever it may be under future use notification regulations, adds to our concern about exposure estimates.
- Future use notification simply gives notice to manufacturers and importers that new uses may require additional review. The additional review process is unclear.
- We urge a closer consideration of the application of a prohibition or reduction strategy, especially for carcinogenic, reproductive, developmental, endocrine disruption or neurodevelopmental toxins, rather than a future use notification.
- Frequent use of future use notification is likely to discourage investigation into cumulative and synergistic effects between and among similar toxic chemicals. Future use notification simply prolongs the unsatisfactory practice of examining the effects of chemicals one at a time, because once they are notified in this way, they are off the regulatory agenda, and no further investigation or action is likely unless significant new information comes forward.
- The role of the public in the future use notification provision is undefined. Given the absence of public reporting and engagement in New Substances Program (e.g., Significant New Activity), we are concerned that the public may be similarly excluded from this process.

Given our concerns, it is our view that future use notification should not be considered an appropriate tool for managing chemicals found to be CEPA toxic, especially when it is used exclusively of any other risk management tools. A regulatory approach leading to reduction and ultimately prohibition, especially for carcinogenic, reproductive, developmental, endocrine disrupting or neurodevelopmental toxins, will ensure that these chemicals no longer pose a risk to human health and the environment in the future.

Recommendation: We urge the government to reconsider its proposed use of the future use notification process for CEPA toxic chemicals. ENGOs request an opportunity to discuss this instrument and its efficacy with departmental officials.

3) Risk Management Activities Based on Exposure, not Hazard

In our view, the risk management activities proposed to date are based too heavily on exposure assessment, and not heavily enough on hazard assessment. We recommend that substances found CEPA toxic be flagged for reduction and elimination actions.

The reason for adopting future use notification as a risk management instrument for many of the substances found to be CEPA toxic in Batches 1-5 appears to be that human and

environmental exposure to the substances is "very limited" or "negligible." In light of the facts that some of these substances are considered to pose health risks at any level of exposure, and confidence in exposure estimates is often rated as very low to low, we find this reasoning unconvincing and lacking in precaution. For example, in the case of diethyl sulfate, the proposed risk management approach document states:

> On the basis of the carcinogenic potential of diethyl sulfate, for which there may be a probability of harm at any exposure level, it is concluded that diethyl sulfate is a substance that is entering or may enter the environment in a quantity or concentration or under conditions that constitute or may constitute a danger in Canada to human life or health. (4)

and

> Confidence in the quantitative estimates of exposure to diethyl sulfate in environment media is considered to be very low to low, as these estimates are based on modeling. However, confidence is high that exposure of the general population to the substance is very limited, in light of the indication that it is not released to the general environment in Canada as well as its very reactive nature. (9)

Thus, diethyl sulphate was determined to be CEPA toxic on the basis that "there may be a probability of harm at any exposure level," but the proposed risk management activity ignores that fact, and appears to support the status quo or even increased use (and thus increased exposure), as long as future new uses are notified (please see point 2, above). Probability of harm at any exposure level does not appear to be taken into consideration to any great extent.

Furthermore, the frequent use of future use notification, on the basis of an exclusive focus on exposure, simply papers over important data gaps regarding toxicity, and is likely to offer very little protection to the environment and human health. In these cases, the government's ability to seek available, or new toxicity information from industry through its authority under CEPA has been under-utilized. The options exist to add these chemicals to the Priority Substances List for further assessment (section 76), or to institute another section 71 survey (including section 71(1)(c)) to require that industry supply information required for better informed decisions concerning protective and preventative measures. In these situations, the precautionary principle should be applied.

Recommendations: We recommend that:

- ***Section 71 be used to its full extent to generate data:***
  - ***Additional data should be generated to determine the cumulative and synergistic effects of chemicals with similar structure and/or effects, and mixtures containing these chemicals;***
  - ***Additional data should be gathered for toxicity hazard endpoints such as endocrine disruption, chronic toxicity, developmental and neurodevelopmental toxicity, even if it means the generation of new toxicity data.***
- ***Substances found to be CEPA toxic should be flagged for elimination or phase out strategies, particularly chemicals that are found to be***

carcinogenic, mutagenic, endocrine disrupting or reproductive and developmental toxicants.

4) Over-reliance on SNAcs

Several ENGOs have expressed on-going concerns with the application of Significant New Activity Notices (SNAcs) to chemicals listed on the Domestic Substances List. See, for example, our letter of February 2007, reproduced below in Appendix A, expressing our concern when the first 148 high priority substances were identified for SNAc notices. Prior to the release of the CMP, the original intention was to apply SNAcs to substances considered "new" to Canada and subject to the New Substances Notification Regulation. Under the CMP, we have noticed a continuing trend toward issuing SNAcs to high hazard – low volume "existing" substances without designating them as CEPA toxic. We continue to have concerns with this process, including the following;

a) The issuance of a SNAc does not necessarily mean that the chemical is not in use in Canada. The threshold for reporting use is set at 100 kg. There may be uses of these chemicals below the reporting thresholds. This means that SNAcs are inadequate to fully protect human health and the environment.

b) SNAcs will require the further assessment of chemicals under the New Substances Program. The results of these assessments may not necessarily result in applying elimination or reduction strategies on these substances, regardless of the initial data gathered through the categorization process.

c) Failure to designate a substance CEPA toxic means that no government action is required to develop management measures on these chemicals unless the SNAc provisions are completed and a finding of toxicity is made under CEPA. This also means that there is no incentive to discover and test safe alternatives for this chemical at this particular time to prevent its use in Canada in the future.

d) The New Substances Program under which the SNAc notices will be implemented lacks a public engagement component for reviewing results of the assessment.

e) The SNAc provision was originally designed to address substances "new" to Canada and assessed under the New Substances Program. This provision was not designed to address existing substances on chemicals listed under the Domestic Substances List.

f) The data collected under Schedule 6 of the New Substances Notification Regulations will not address all the existing data gaps for substances on the DSL. Industry will not be required to submit data on vulnerable populations such as infants and children, workers and aboriginal communities, or on chronic toxicity, endocrine disruption potential, and neurotoxicity, or on cumulative and synergistic impacts.

g) We note that under the CMP, SNAcs have been proposed for approximately 159 substances (148 from the top 500 high priority chemicals and 11 chemicals from Batches 1-5).[5] It is our view that it is more protective and precautionary for the government to list all of these chemicals as CEPA toxic and to propose to add them to CEPA's Prohibition of Specific Toxic Chemicals Regulations, 2000.

h) There has been very limited public policy debate on the advisability of applying SNAc notices to existing substances under the CMP, despite efforts by ENGOs to raise this important policy issue in submissions on the various batches. As the government prepares to release its guidance document on the SNAc program, it remains unclear if this document is to initiate policy discussions between government and stakeholders.

Recommendation: We urge the government to designate as CEPA toxic chemicals that are not in use, manufactured or imported into Canada, but have been found to meet the hazard criteria for designation as toxic under CEPA. These CEPA toxic chemicals should be added to Schedule 1 of CEPA.

Recommendation: We urge the government to list these toxic chemicals on the Prohibition of Certain Toxic Chemicals Regulations under CEPA to ensure that future manufacture, import, or use of these chemicals are prevented.

Recommendation: The government should initiate a comprehensive policy dialogue to assess the applicability of SNAcs to existing substances under the CMP, beginning with the release of a guidance document.

5) Consideration of Many Vulnerable Populations Still Lacking in Government's Management Approaches

The typical risk management approach document to date makes slight reference to vulnerable populations, focusing only on children's exposure. Quoting again from the Risk Management Approach document for diethyl sulfate:

> The Government of Canada considered, where available, risk assessment information relevant to *children's exposure* to this substance. As part of the Challenge, the Government asked industry and interested stakeholders to submit any information on the substance that may be used to inform risk assessment, risk management and product stewardship. In particular, stakeholders were asked through a *questionnaire* if any of the products containing the substance were *intended* for use by children. Given the information received, it is proposed that no risk management actions to specifically protect children are required for this substance at this time. (10: italics added)

There are several problems with this approach.

[5] SNAc proposed for: 148 high priority chemicals plus CAS No. 70161-19-2 and 83006-67-1 (Batch 2); CAS No. 4395-65-7, 60352-98-9 and 74336-60-0 (Batch 3); CAS No. 1154-59-2, 1176-74-5, 64325-78-6, 68443-10-7 and 70776-86-2 (Batch 4), and Disperse Orange 5 (CAS No. 6232- 56-0) (Batch 5).

a) Even if a product is not intended for use by children, children may use it or be otherwise exposed to it. The assessment process does not take this possibility into consideration.

b) The questionnaire is voluntary: there is no requirement to respond to it.

c) The scope of the questions in the questionnaire is too narrow. The question asks only "if any of the products containing the substance were intended for use by children." The questions should require the submission of other information such as toxicity data and the potential exposure of children throughout the life cycle of the chemical.

d) Risk management activities should be prompted principally by hazard, as is the case in most jurisdictions, rather than exposure data.

As important as these points about risk to children are, the question of other vulnerable populations, including workers, people with chemical sensitivities, aboriginal communities and people of low income should also be covered in the surveys conducted by government. These vulnerable populations are not addressed at all in the risk management approach documents to date. There should be special consideration of these vulnerable communities in the management strategies.

We recognize that the government faces a serious challenge in this area: the lack of focus on these vulnerable populations in the CMP assessment framework means that the evidence on which to base a more comprehensive approach to protecting vulnerable populations is not gathered. This could be overcome if the scope of the questions asked under the section 71 survey were broadened to focus on the full list of vulnerable populations and included hazard as well as exposure data, and if the assessment process were expanded to take into account the unique attributes of these subpopulations.

Recommendation: We recommend that the Industry Challenge of the Chemicals Management Plan be re-examined and revised in light of the lack of attention paid to vulnerable populations to date. Indeed, this shift should be required when data gathering for medium priority chemicals get underway.

6) Petroleum Sector Stream – promoting greater transparency, accountability and public engagement

The lack of information and public engagement in the work being undertaken on high priority chemicals in the Petroleum Sector Stream is a very problematic issue for ENGOs. The information we have been given about progress made on the assessment and management of these chemicals has been limited to updates.

a) The Chemical Substances website contains limited information on the Petroleum Sector Stream

There is very little information on the Chemical Substances website about the assessment and risk management of the approximately 160 high priority chemicals to be handled in the petroleum sector stream. For example, the website does not describe the process in any detail or provide timelines for the release of assessments and risk management documents.

b) Updates provided at the Stakeholder Advisory Council limited

The presentation on the petroleum sector stream at the Stakeholder Advisory Council meeting of June 18, 2009 was helpful, but at that time we were told that the first set of assessments would come out in December 2009, and that they would cover 55 chemicals. This information still is not on the website, and even after the Stakeholder Advisory Council meeting of January 29, 2010, we do not have a firm date as to when these assessments will be published.

c) Expected public comment period on draft assessments does not adequately consider other CMP implementation response periods

It is very difficult for interested parties to plan their time to engage in the petroleum sector stream assessment and management process when so little information about it is available. Furthermore, we are told that the petroleum sector substances will be addressed in the same timeframe as the Challenge substances. If this is the case, a very large number of assessments and risk management documents will be released over a very short period of time. Even if efficiencies are found for grouping chemicals in assessments, any member of the public who plans to review and respond to these assessments will have to consider a very large amount of material in a very short time. The public will have very limited opportunity to engage effectively in this context.

d) Release of the petroleum sector stream assessment and risk management documents not integrated with the release of batches in the Challenge process

Members of the public may be faced with entirely too many documents at any one time to deal with them adequately in the time allotted. Since all chemicals under the Industry Challenge and the Petroleum Sector Stream are high priority chemicals, there is an expectation that the results and progress made on all of these chemicals should be made publicly available, and involve comprehensive public engagement.

Recommendation: We recommend that the work plan for the Petroleum Sector Stream chemicals be placed on the Chemical Substances website with a schedule and timelines for the release of assessments and risk management documents for the various groupings of these substances.

Recommendation: We urge the government to initiate additional discussions to address how interested parties can be given a reasonable length of time to review and respond to government proposals on high priority chemicals in the Petroleum Sector stream.

7) Socio-economic Considerations in Risk Management Approach Documents

Each Risk Management Approach document contains a section titled "Socio-economic Considerations." These sections are possibly the weakest and least transparent in these documents to date. We request a dialogue with Environment Canada and Health Canada on this serious matter.

Some of the risk management approach documents for the early batches included very sketchy cost estimates to industry and the public of taking selected risk management steps, while no information has been provided on social and economic benefits from taking those risk management steps. For example, the Risk Management Approach for bisphenol A (BPA)[6] claims that "socio-economic factors have been considered in the selection process for a regulation and/or instrument respecting preventive or control actions, and in the development of the risk management objective(s)." The economic information given was limited to sales figures for polycarbonate baby bottles, labour statistics for employment in baby bottle manufacturing, and the retail price of some BPA-free baby bottles (pp. 11-12). There was also mention of other industries that may be impacted by the proposed management actions, but no information or estimates. No social analysis whatsoever is provided in the document. For example, the document does not provide any insight into the potential cost savings to the health care system or the benefits to the environment as a result of taking the proposed actions. It is our view that socio-economic analysis requires substantial discussion of the full range of factors related to social, economic and environmental impacts and how such considerations contribute to the decision-making process. At the moment, interested members of the public have very little information about how government officials took socio-economic factors into account and how data was collected and assessed in the selection process for management instruments for BPA.

The majority of risk management approach documents in Batches 1-5 contain even less information in the "Socio-economic Considerations" sections than was the case for BPA. For example, the risk management approach document for diethyl sulfate simply states, "Socio-economic factors have been considered in the selection process for a regulation and/or instrument respecting preventive or control actions, and in the development of the risk management objective(s)" (p. 10). No information is provided as to what factors were considered and what the outcome of that consideration was. Given that cost-benefit analysis is meant to play a role in the choice of management instruments,[7] this lack of information shows lack of transparency in the decision-making process of government officials. Without knowing how the government analyzed and compared the costs and benefits of a variety of potential risk management actions for each toxic chemical, it is

[6] Government of Canada, *Proposed Risk Management Approach for Phenol, 4,4"-(1-methylethylidene) bis (Bisphenol A)* October, 2008. http://www.ec.gc.ca/substances/ese/eng/challenge/batch2/batch2_80-05-7_rm_en.pdf.

[7] See Treasury Board Secretariat, *Assessing, Selecting, and Implementing Instruments for Government Action*, 2007; and Treasury Board Secretariat, *Canadian Cost-Benefit Analysis Guide: Regulatory Proposals*, 2007.

very challenging, if not impossible, for the public to respond to this important aspect of decision-making.

We understand the need to prioritize actions on toxic chemicals to focus on those activities that will make best use of the limited resources of Health Canada and Environment Canada. However, the public should have access to the information on which government decision makers base their decisions and the right to comment on its adequacy.

Recommendation: We urge the government to initiate a dialogue with the public on gaining access to the information used in socio-economic analyses of proposed risk management activities and commenting on its adequacy.

Recommendation: The public engagement process should be revised to provide the public enough information and time to comment effectively on the results of the government's cost-benefit analyses.

8) Risk Management Training Workshop

As noted in the introduction to this letter, we appreciate the opportunity to have participated in the Risk Management workshop held in October 2009. We understand that this meeting was a first attempt to discuss risk management activities under the CMP. The documents and presentations made were relevant and useful. However, participants had very little time to fully engage and provide government with insights and levels of expectations for actions to be taken on CEPA toxic chemicals.

We would like to emphasize the need for more focused discussions on specific management activities such as pollution prevention strategies, the use of non-regulatory tools to reduce or eliminate the manufacture and use of toxic chemicals in Canada, and addressing the needs of vulnerable populations. Planning for such discussions should include ENGO input into to the scope and development of agenda items and allocation of time for discussion. This level of dialogue is critical given that the CEPA timeframe provides the government two years to develop its management options. We would appreciate the opportunity to engage in such discussions as specific risk management options are being developed, rather than provide input when decisions on management options have been released for the public comment period.

Recommendations: We urge the government to engage in a two way dialogue on proposed risk management activities to ensure public engagement throughout the risk management timeframe.

We end our letter with a recommendation for the government to make full use of the precautionary principle in the current situation. In this letter, our organizations have raised very serious concerns regarding the proposed management approach to chemicals under the Industry Challenge. In part, our comments reflect our concerns

with the approach taken by government to screening risk assessments and the failure of government to require industry to supply much needed information on high priority chemicals. Many data gaps remain on many of these high priority chemicals, particularly with respect to hazard, exposure scenarios and use applications. Since 1999, sufficient time has elapsed for industry to have supplied such information, had they been required to do so. Absence of such information should not prevent the government from taking measures to fully protect Canadians from these chemicals. The Canadian government has the opportunity now to apply the precautionary principle in the absence of full scientific evidence. In the current situation, and until data gaps are filled, this is the only way to fully protect the environment and human health from the harmful effects of toxic substances.

Yours truly,

For the following signatories

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APPENDIX A

ENGO letter on Significant New Activity dated February 14, 2007

February 14, 2007

Director
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Environment Canada
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Sent via email and regular mail

Re: *Canada Gazette*, Part 1, Vol. 140, No. 49, December 9, 2006
Notice of intent to amend the *Domestic Substances List* to apply the Significant New Activity provisions under subsection 81(3) of the *Canadian Environmental Protection Act, 1999* to 148 substances

Environment Canada's Use of SNAcs

On December 9, 2006, Environment Canada posted a notice in the *Canada Gazette* indicating its intention to amend the Domestic Substances List (DSL) by applying the Significant New Activity (SNAc) provisions under subsection 81(3) to 148 substances. The proposal to limit the use of these substances through restrictive SNAcs is pragmatic in light of the fact that the government does not currently have the ability to delete these substances from the DSL. However, since the review of the *Canadian Environmental Protection Act, 1999* (CEPA '99) is now underway, the government should seek an amendment which would allow substances to be deleted from the DSL in these and other appropriate circumstances.

Following categorization, an industry survey under section 71, and a draft screening assessment under section 74, these substances are believed to be:

- Persistent, Bioaccumulative, and inherently Toxic (PBiT), and
- *Not* presently imported or manufactured in Canada in quantities above 100 kg per year, and therefore not considered to be CEPA-toxic under section 64 due to the lack of Canadian exposure.

The conclusion that these substances are not being imported or manufactured in quantities above 100 kg / year derives primarily from the results of an industry survey

which was published in the *Canada Gazette* on March 4, 2006. In that survey, industry stakeholders were asked to indicate whether they manufactured or imported the substances in quantities more than 100 kg during the 2005 calendar year. While the intention of the survey was to identify those substances which are no longer in Canadian commerce (i.e. the 148 substances now subject to the SNAc notice), the survey had a number of limitations.[8] These limitations create the possibility that substances manufactured or imported in some year other than 2005, or in amounts smaller than 100 kg, continue to pose a hazard in Canada.

The SNAc proposal would require industry to reassess these substances under the New Substances Notification Regulations (NSNR) before undertaking any significant new use. The NSNR process is only triggered once the quantity of the substance reaches 100 kg / year, and the SNAc notice defines "significant new activity" as any activity involving more than 100 kg of the substance in a calendar year. This is problematic for two reasons. First, as noted above, such activities could already be occurring, and government would not be aware of them based on its 2006 survey results. It is unclear whether existing / ongoing uses not captured by the survey would be considered significant "new" uses and subject to the NSNR. Second, the threshold of 100 kg could still allow for damage to be done by these hazardous substances. The reasons for this could include their persistence in the environment, synergistic effects with other DSL substances, or potential for long range transport, to name a few.

There are other problematic aspects of the NSNR approach which should be modified with respect to these 148 substances. For instance, there is a lack of adequate and effective public transparency in the NSNR assessment process. Under that process, the Minister is required to post a notice in the *Canada Gazette* upon adding a substance to the DSL or the NDSL, granting a waiver, or imposing a condition, prohibition, or SNAc restriction. However, the public is not informed of new notifications, nor is the public typically given the opportunity to comment on draft risk assessment reports before final decisions are made.

Given the hazardous properties of these 148 substances, we urge the government to improve upon the NSNR process by imposing stricter transparency requirements through the Chemicals Management Plan. The public is entitled to be informed of, and comment upon, any proposed commercial use of these substances.

The SNAc notice goes on to indicate that, prior to the commencement of the proposed new activity, notifiers should submit the NSNR information requirements contained in:

- Schedule 4,
- Item 8 of Schedule 5, and

[8] Note: early in 2006, NGOs voiced a number of concerns regarding the structure of the survey. Most notably, the survey failed to capture companies that used the substances in 2004 or previously, or planned to use the substances in 2006 or subsequently, or used the substances in amounts under 100kg. See J. Ginsburg and F. de Leon, "Letter to Environment Canada regarding a Domestic Substances List (DSL) categorization survey" (16 March 2006), online: <cela.ca/uploads/f8e04c51a8e04041f6f7faa046b03a7c/537EC_surveys.pdf>.

- Item 11 of Schedule 6.

Schedule 4 is the basic, minimal data set which is required of new substances which are being notified at the lowest volume trigger. The Schedule includes primarily identification information, and does not require the production of any test data (beyond that which is already in the possession of the manufacturer or importer). Item 8 of Schedule 5 and Item 11 of Schedule 6 relate only to exposure information. Accordingly, should industry seek to (re)introduce the substances onto the market at quantities above 100 kg, they could be allowed to do so without submitting any test data whatsoever.

Government has indicated that "[c]onsidering the hazardous profile of these substances, there is limited possibility that they would be reintroduced."[9] However, given the fact that 1) government conducted its categorization and screening assessment without requiring any new test data, and 2) these substances are already believed to be highly hazardous, there should be no opportunity for continued use without industry demonstrating through scientific testing that the substances are safe. This would require proponents to provide, at a minimum, substantive testing data equivalent to the most rigorous data schedule provided under the NSNR, including:

- Data from one repeated-dose mammalian toxicity test, of at least 28 days duration, which test is selected on the basis of the most significant route of potential human exposure;
- Mutagenicity data obtained from an *in vitro* test, with and without metabolic activation, for chromosomal aberrations in mammalian cells; and
- For chemicals having a water solubility of greater than or equal to 200 µg/L, adsorption-desorption screening test data, the hydrolysis rate as a function of pH and, if known, an identification of the products of the hydrolysis.

Further, we would augment the NSNR test schedules by requiring companies notifying these substances under the NSNR to also submit data on chronic toxicity, endocrine toxicity, neurodevelopmental toxicity, as well as information regarding safer alternatives. Additionally, the government should provide explicit guidance on how the precautionary principle will be applied to regulatory decisions affecting these substances, in light of their hazardous characteristics identified through the categorization process.

Recommendation: The Government of Canada should seek an amendment to CEPA '99 which would allow substances that are no longer in Canadian commerce to be deleted from the DSL.

Recommendation: Any existing or ongoing uses of the 148 substances which were not captured by the 2006 survey should be considered "new" and subject to the NSNR requirements. Before and until such time as they have received approval under the NSNR, government should impose mandatory risk management measures to eliminate these uses from the Canadian market.

[9] Government of Canada, "Provisions for Significant New Activities and Outcome from DSL Categorization" (Presentation at the Chemicals Management Plan: Technical Briefing, Ottawa, 15 December 2006).

Recommendation: The Government of Canada should establish a process to enhance public transparency and participation in any notification to the NSNR involving these 148 substances. The public should be informed of any notifications and have the opportunity to comment on draft assessments before final decisions are made regarding the use of these substances at any quantity.

Recommendation: Given the hazardous properties of these substances, the SNAc notice should define *any* activity involving these substances to be new, not merely those activities in excess of 100 kg / year.

Recommendation: These 148 substances should not be approved for import, manufacture, or use unless industry can demonstrate their safety through scientific testing. At a minimum, industry should be required to submit testing data equivalent to the highest schedule for non-NDSL substances under the NSNR. Additionally, notifiers should be required to submit data on chronic toxicity, endocrine toxicity, neurodevelopmental toxicity, as well as information regarding safer alternatives.

Health Canada's Use of SNAcs

The Government of Canada has indicated that in early 2007, Health Canada will apply the SNAc provisions to certain substances that have inherently hazardous properties for humans. We have yet to see the details of this proposal, however, the comments provided above may also be relevant to Health Canada's process. We look forward to providing additional comments once further information becomes publicly available.

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