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Dear Mr. Enei and Ms. Lloyd:

Re: Looking Forward: Recommendations concerning the workplan for medium priority chemicals under the Chemicals Management Plan

This letter is written by environmental non-governmental organizations (ENGOs) and Aboriginal members and alternates of the CMP Stakeholder Advisory Council (SAC) in response to the Government of Canada's (GOC) request to the SAC at its October 2, 2009 meeting for advice on considerations moving forward after the Challenge phase of the Chemicals Management Plan (CMP).

It is crucial that Environment Canada (EC) and Health Canada (HC) continue their chemicals management work in the period following the completion of the Challenge phase in order to address the 2,600 medium priority chemicals remaining from the categorization exercise, along with the approximately 350 chemicals that have been moved up to medium priority from low priority and the approximately 100 added as a result of recent categorization decisions, by the target date of 2020.

First and foremost, our advice to the Government of Canada is to ensure that its activities on these substances support the following key principles outlined in the *Canadian Environmental Protection Act 1999* (CEPA):

- Pollution Prevention
- Virtual Elimination
- Precautionary principle

Second, this is an ideal time to apply the lessons learned about what did and did not work well in the Challenge phase of the CMP. In this letter, we focus on the assessment and management of the medium priority chemicals, rather than all of the wide-ranging questions and issues that were raised in the deck "Chemicals Management: Looking Forward," presented at the October 2, 2009 Stakeholder Advisory Council meeting. Also, we do not express an opinion about the scope, details and timing of the DSL Inventory Update that has just been initiated. We limit our comments to what is required to address the chemicals in the medium priority category for the protection of human health and the environment, and base our recommendations on our observations about the strong and weak features of the Challenge phase.

Overall, we seek to support a government plan on medium priority chemicals that:

- is committed to substantial reduction and elimination strategies to effectively protect human health and the environment;
- increases accountability of manufacturers, producers, releasers and sellers of targeted substances;
- addresses substantial data gaps, in particular toxicity data for targeted health endpoints and impacts to vulnerable populations (i.e., children, workers, Aboriginal communities, such as Inuit communities, and people with chemical sensitivities);
- promotes transparency and effective public engagement; and
- uses its full authority under CEPA to achieve the above.

1. Workplan

We recommend that the government develop a comprehensive workplan with specified timelines to address and report on activities to be undertaken on all medium priority chemicals.

All medium priority chemicals may be capable of being toxic, since the evidence gathered during the categorization process outlined that they all meet specific hazard and exposure criteria for inclusion in this category. Therefore, a workplan is required to assess and manage the full suite of the approximately 3,100 chemicals referred to above, by the target date of 2020, as supported by the international policy framework, Strategic Approach to International Chemicals Management (SAICM). This is also in keeping with statements made by government in various presentations on the CMP. The workplan should outline:

- government objectives for management of chemicals, including elimination and reduction;
- specific timelines for the submission of new data by industry, including toxicological data (see below);
- timelines for the completion of assessments; and
- timelines for the implementation of management regimes as required for all chemicals in this group.

2. Goals for elimination and reduction of specific chemicals

For the purposes of protecting Canadians and the environment, we propose the following goals:

- The government should seek to phase out chemicals that are carcinogenic, reproductive, developmental, endocrine disruption or neurodevelopmental toxicants by 2020, with a 75% reduction by 2015.

- For chemicals that are persistent or bioaccumulative and inherently toxic, the government should seek a reduction of 90% by 2020, with an interim goal of 75% reduction by 2015.

3. Batches

Grouping high priority substances in batches, to be assessed and managed at predetermined intervals according to a set timetable, worked reasonably well in the Challenge phase. Members of the public, ENGOs, Aboriginal representatives, government assessors and managers, and industry had a reasonable amount of time to prepare or respond to requests for information, draft and final risk assessments, and draft and final risk management scope documents, although the frequency of the release of batches was challenging at times.

4. Sectors

In our view, the sector approach is limited as it may not consider the full scope of uses and impacts of any given chemical used in the sector on health and environment. We recommend that if the sector approach is used, special care is taken to ensure that the full range of uses and impacts of each chemical, wherever and however used, are taken into consideration.

Furthermore, based on the activities undertaken within the petroleum sector approach, the level of engagement, transparency and input by the public has not worked at all well to date in the Challenge phase. There has been little transparency as to how this group of substances is being handled. Information was placed on the CMP website only recently, and it does not contain the process or timelines for the release of assessments. The presentation at the SAC meeting on June 18, 2009 was helpful, but it was very disconcerting to learn, in light of the government's efforts to promote effective and transparent public engagement, that the first set of assessments would come out in December 2009, covering 55 chemicals. This information is not on the CMP website, and the assessments will come out right in the middle of the high priority batch process, leaving interested parties almost no time to respond. We recommend that if more than one approach is taken to assess and manage the medium priority substances, the approaches be integrated in an overall workplan so that the scheduling and timelines are explicitly outlined, thereby allowing full transparency.

5. Accountability through the supply chain (producers, manufacturers, sellers, and releasers) using the full scope of CEPA section 71(1)(c)

We recommend that gaps in toxicity data be addressed and that greater emphasis be placed on hazard in assessments.

The current approach taken by the GOC for collecting toxicity data needs to be strengthened. The categorization process showed that experimental test data are limited for many chemicals. Significant data gaps continue to exist on many chemicals, and the quality of data used to make decisions about toxicity remains uncertain in many cases. The GOC has relied on modelled data and QSARs during the Challenge phase to complete assessments (i.e. pigments and dyes). The use and reliance on modelled or QSAR data may increase the level of uncertainty regarding the toxicity of some chemicals. High uncertainty and data gaps continue to provide a significant challenge in assessors' efforts to apply the precautionary principle.

The Industry Challenge has not been effective in filling the significant data gaps on high priority substances, and unless the GOC requires toxicity data from industry with respect to the middle priority substances, the situation is likely to further deteriorate. Furthermore, these gaps may have implications for other chemicals being assessed under the current process as well as "new" substances subjected to the New Substances Notification Regulations.

Greater emphasis should be placed on filling in the data gaps and reducing uncertainty, especially in light of European Union (EU) REACH legislation and possible changes in the chemicals management regime in United States. The GOC should require industry to submit specific toxicity data using section 71(1)(c) to fill in data gaps rather than relying on the use of modelled data. Specifically, the government should seek experimental data that demonstrates the safety of chemicals based on the criteria of carcinogenicity, reproductive and developmental toxicity, endocrine disruption, neurodevelopmental toxicity, persistence, bioaccumulation, and inherent toxicity.

Lack of data should not preclude the GOC from regulating these substances, and in fact, the goal should be to phase out from industrial sources and consumer products all carcinogens, reproductive and developmental toxicants, endocrine disruptors, neurodevelopmental toxicants, and persistant or bioaccumulative and inherently toxic substances, with special attention paid to substances capable of long-range transport. Accountability on the part of industry requires that it provide this additional data to demonstrate the safety of the middle priority substances to the environment and/or human health.[1]

6. Effects on and protection of vulnerable populations

Specific attention should be paid to mandatory toxicity data submission on vulnerable subpopulations such as the developing fetus, infants and children, the elderly, workers, people of low income, Aboriginal communities and people with chemical sensitivities. The absence of such data should not be considered a good reason to take no action. Furthermore, the government's approach undertaken through the DSL Inventory update on products intended for children is limiting and does not provide information on the full range of vulnerable populations.

7. Synergistic and additive effects

We recommend that priority focus be placed on determining the possible cumulative and synergistic effects of exposure to multiple substances. The chemical-by-chemical approach leaves many questions unanswered about the hazards of multiple exposures. The lack of insight in this area continues to hamper the quality of assessments being undertaken by the government and the strength of its management proposals.

[1] See Principle 2 of the US EPA's "Essential Principles for Reform of Chemicals Management Legislation:" **"**Manufacturers Should Provide EPA with the Necessary Information to Conclude That New and Existing Chemicals are Safe and Do Not Endanger Public Health or the Environment." **http://www.epa.gov/oppt/existingchemicals/pubs/principles.html**

8. Support safe alternatives using pollution prevention strategies, including green chemistry

If there are, at present, no safe alternatives to given toxic substances, efforts should be made to develop them. The CEPA framework does not address the need for safe alternatives to support prevention and prohibition efforts on toxic chemicals. Substantial progress can be made if pollution prevention strategies are undertaken to promote elimination of toxic chemicals. This effort should include the use of green chemistry. The area of green chemistry is emerging as an opportunity to address and replace some toxic chemicals in the market today. However, we are not aware of any substantive discussions at the policy level in Canada on the key principles guiding green chemistry. To ensure that green chemistry produces safer alternatives that do not cause adverse health and environmental impacts, substantial policy discussions need to be undertaken and research supported.

9. Rapid screening

We urge the government not to apply a rapid screening tool to complete assessment on medium priority substances.

A rapid screening tool, which was applied to low priority chemicals identified through categorization, will result in on-going data gaps concerning the impact on human health and the environment of these chemicals, their fate in the environment, the route of exposure, the range of uses and applications and the quantities in use. Furthermore, the use of the rapid screening tool does not require accountability on the part of industry for demonstrating the safety of their products.

10. Public engagement and capacity building

The government must ensure broad, transparent and effective public engagement throughout the assessment and management process for medium priority chemicals. The public engagement undertaken through the initial Industry Challenge has not been sufficient and needs to be strengthened. Effective engagement by public interest organizations from health, environment, labour organizations and first nation and aboriginal communities is essential to implementation efforts on chemicals management. Experience in the Challenge phase has shown that it is imperative to support environmental, health and aboriginal groups in their capacity building and outreach work to help their constituencies engage in a meaningful way in the assessment and management of chemical substances.

Further, it is essential that the Stakeholder Advisory Council (SAC) be carried forward to this new phase of work on the CMP. The SAC was established in 2007 to provide advice to the government on the implementation of the CMP. Such an advisory body will continue to be relevant and appropriate for work to be completed on medium priority chemicals, and we recommend its continuance. However, the role of the SAC could be enhanced to enable substantial input and recommendations on key elements of the workplan on medium priority chemicals.

11. Domestic Substances List (DSL) and National Pollutant Release Inventory (NPRI)

We recommend that DSL inventory updates and the NPRI be used to gather data on the importation, manufacture, use, volume, release and transfer of *all* the medium priority chemicals through mandatory reporting and that this information be made public on an annual basis.

As part of the data collection required for assessment and management, the GOC is undertaking an update of the DSL for the medium priority substances. (As noted above, we have not provided comments about the scope of this exercise in this letter.) Similarly, medium priority chemicals should be targeted for improved reporting under NPRI. Since the announcement of the CMP, there has been no progress to update the reporting requirements for NPRI for chemicals identified under the categorization process. This program should be updated immediately to improve reporting of releases and transfers of these chemicals in Canada. Furthermore, reporting thresholds should be lowered to ensure that all releases or transfers of these substances are tracked and reported to the public.

12. CMP Annual Report

Similar to the CEPA Annual Report, a report to outline the progress on assessment and management of chemicals should be released to the public for comment on an annual basis. An annual report can be a significant resource to identify areas of success and areas of possible improvement for managing toxic chemicals. An annual report can also outline the roles of the various federal laws focused on toxic substances in implementing management activities on CEPA toxic substances.

13. Funding

There are two issues relevant to funding. First, the assessment and management of the medium priority substances is a very large undertaking. We recommend that the GOC provide Environment Canada and Health Canada with additional funding for this specific purpose, similar to the funding provided for the Challenge phase for high priority substances.

Second, it is equally important that adequate resources are directed for public engagement in the process (see number **10**, above). The involvement of stakeholders in the discussions of the Stakeholder Advisory Council has been a major vehicle for providing input on government efforts, and the current federally-funded capacity building projects have been essential for outreach and helping constituencies engage in a meaningful way in the CMP process. However, we recommend that additional funds be provided to address specific issues and emerging proposals made by government throughout the CMP process.

We would welcome the opportunity to discuss the above elements in greater detail. You may contact us at the numbers below.

Sincerely,

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