July 17, 2023

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Dear Ministers,

Process issues relating to the Chemicals Management Plan illustrated in the Draft State of Per- and Polyfluoroalkyl Substances (PFAS) Report

On behalf of the undersigned associations, we are writing to you regarding the recently published Draft State of Per- and Polyfluoroalkyl Substances (PFAS) Report and Risk Management Scope. Before sharing our comments, it should be noted that PFAS impart a wide range of important functions that are vital for the manufacture and performance of medical devices, cell phones and laptops, telecommunications infrastructure and advanced transportation, aerospace and defense applications, among many others.

Our comments focus primarily on the process that led to the conclusion in this report, rather than the contents of the report itself. Many of the co-signatories will be providing technical, PFAS-specific comments to the Departments that are focused on their individual sectors.

Overall, we believe that this report represents a significant departure from Government of Canada's reputable Chemicals Management Plan (CMP) process. The well-defined CMP cycle consists of information gathering, risk assessment, risk management, compliance promotion, enforcement, and performance measurement. In some (more complex) cases, Science Approach Documents (SCiADs) or State of the Science reports precede information gathering and stakeholders are provided the opportunity to comment before the approaches are applied to individual substances or groups of substances and a regulatory conclusion is made.

We are advancing the following recommendations to ensure that substances within the CMP are assessed and managed appropriately.

1) **The State of PFAS Report should follow previously established precedents for SCiADs and State of the Science reports**. Stakeholders should have had the opportunity to comment on this approach before a conclusion was made. It is our view that only after the approach is finalized should it be applied to a substance or group of substances and should a subsequent risk assessment occur.

2) **Information gathering should precede risk assessment**. The Risk Management Scope lists information gathering as a proposed risk management option, which is inappropriate. Information gathering is not a form of risk management and should precede risk assessment to determine if there are in fact exposures of concern that need to be risk managed. We agree that information gathering can inform risk management, but in the case of the State of PFAS Report, there are significant gaps identified that make a conclusion under Section 64 and risk management discussions premature.

3) **The risk assessment should focus on PFAS that are legally available for use in Canada**. There are only a small number of PFAS on the Domestic Substances List (DSL), and those that are not on the DSL require specific authorization and are limited by volume in accordance with the New Substance Notification (NSN) Regulation Schedule allowances. By definition, those substances cannot meet the Schedule 1 definition because there is no possibility of a significant exposure of concern from Canadian uses. Canadian manufacturers need authorization to use the overwhelming majority of PFAS if they are intentionally adding the substance to a process in Canada.

   While most PFAS are not legally available for use in Canada, they may enter the economy through finished goods. Canadian businesses have limited control over impurities in the materials they acquire unless the substance under question is "intentionally added" and disclosed. In that case, it is the duty of the originating jurisdiction to regulate the substance. Canada cannot regulate for an impurity whose presence is unknown unless the exporting jurisdiction has removed it entirely from commerce.

4) **The Schedule 1 listing for PFAS must be precise and must be consulted on as part of the risk assessment process**. There is no broadly accepted definition of PFAS in either the State of PFAS Report or the Risk Management Scope that is precise enough for addition to Schedule 1. For a substance or group of substances to be added to Schedule 1, the actual language of the Schedule 1 proposal is essential to formulating a response. The State of PFAS Report hints at a proposal but does not give any regulatory language.

With PFAS used so broadly throughout economy, the chemicals management process for these substances cannot and should not be rushed. Based on the April 2021 notice of intent, our understanding was that the State of PFAS Report was meant to be a summary of relevant information on the class of PFAS (i.e., a strategic first step). If unique approaches are needed to address a class of substances of this magnitude, a Strategic Roadmap like that of the U.S. Environmental Protection Agency (EPA) would help alleviate concerns and ensure predictability and transparency for stakeholders.

We hope that you will consider these recommendations to ensure that Canada's CMP can maintain its reputation as a world-class, risk- and science-based chemicals management program.

If you have any questions or concerns, please contact: bmasterson@canadianchemistry.ca.

Sincerely,

CHEMISTRY INDUSTRY ASSOCIATION OF CANADA

The Mining Association of Canada | L'association minière du Canada

Electricity Canada | Électricité Canada

CM&E CANADIAN MANUFACTURERS & EXPORTERS

Medtech Canada

Canadian Chamber of Commerce | Chambre de Commerce du Canada

Canadian Fuels Association | canadienne des carburants

COSMETICS ALLIANCE CANADA

cna canadian nuclear association

AIAC Aerospace Industries Association of Canada | L'Association des industries aérospatiales du Canada

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