

## Substances Management Advisory Note 2014-01

### Application of the Significant New Activity Provisions of the *Canadian Environmental Protection Act, 1999* to 'Special Category' Substances

This advisory note explains to manufacturers, importers and users of substances (i.e., chemicals, biochemicals, polymers and biopolymers) how a Significant New Activity notice or order (SNAc) under the *Canadian Environmental Protection Act, 1999* (the Act) applies to special category substances (i.e., research and development, contained site-limited intermediates, and contained export-only substances).

#### Background

The Minister of the Environment may publish a SNAc pursuant to section 85 or subsection 87(3) of the Act when a significant new activity in relation to a substance may result in new or increased risk.

A SNAc notice or order will define what is considered to be a significant new activity, as well as indicate the specific information that must be provided to the Minister, the timelines for providing this information and the period for the Minister to assess it. Once the final SNAc notice or order has been published, no persons shall undertake the new activity unless the information in the SNAc has been provided to the Minister and the notifier has been advised of the outcome of the assessment or the assessment period has expired.

#### What are 'Special Category' Substances?

The term 'special category' substance is taken from the Regulatory Impact Analysis Statement published with the *New Substances Notification Regulations (Chemicals and Polymers)* (the Regulations), and used within the *Guidelines for the Notification and Testing of New Substances: Chemicals and Polymers*, where it is defined as any substance that is manufactured or imported as:

- a) a research and development substance; or
- b) a contained site-limited intermediate substance; or
- c) a contained export-only substance.

These categories, or aspects of them, are further defined in subsection 1(1) of the Regulations as follows:

**Research and development substance** refers to a substance that is undergoing systematic investigation or research, by means of experimentation or analysis other than test marketing, whose primary objective is any of the following:

- (a) to create or improve a product or process;
- (b) to determine the technical viability or performance characteristics of a product or process;  
or
- (c) to evaluate the substance prior to its commercialization, by pilot plant trials, production trials, including scale-up, or customer plant trials, so that technical specifications can be modified in response to the performance requirements of potential customers.

**Site-limited intermediate substance** refers to a substance that is consumed in a chemical reaction used for the manufacture of another substance and that is:

- (a) manufactured and consumed at the site of manufacture;
- (b) manufactured at one site and transported to a second site where it is consumed; or
- (c) imported and transported directly to the site where it is consumed.

**Contained** applies in respect of a site-limited intermediate substance or an export-only substance, and means an absolute release limit of 1 kg per day per site to the aquatic environment after wastewater treatment.

### **When are 'special category' substances excluded from a SNAC?**

Consistent with the Policy on the Use of Significant New Activity Provisions of the *Canadian Environmental Protection Act, 1999*, the definition of a significant new activity in a SNAC notice or order will correspond to activities where there is a suspicion that the activity(ies) could pose a new or increased risk to the environment or human health.

Inclusion or exclusion of special category substances from the notification requirements of a SNAC are considered on a case-by-case basis. For SNACs describing the new activities by inclusion (i.e. specifically identifying the significant new activities), special category substances would not be subject to the notification requirements of the SNAC unless explicitly described therein. Similarly, for SNACs describing new activities by exclusion (i.e. identifying activities for which the notice or order does not apply), special category substances would be subject to the notification requirements of the SNAC, unless those activities are explicitly identified as being excluded.

### **Examples of SNAC wording including or excluding special category substances:**

The following examples demonstrate how the definition of significant new activities may be written in a SNAC notice or order to either include or exclude special category substances. This list is to be taken only as an example of possible wording and any questions concerning the activities subject to notification under a SNAC should be directed to the Substances Management Information Line.

#### **Example 1: Excluding certain special category substances**

- i. Any activity involving, in any one calendar year, the use of more than a total of 10 000 kg of the substance, except as a contained site-limited intermediate or as a contained export-only substance, as defined in subsection 1(1) of the *New Substances Notification Regulations (Chemicals and Polymers)*.

*In this example, the special categories of contained site-limited intermediate and contained export-only are explicitly excluded from the SNAC definition and are therefore not subject to the notification requirements. The special category of research and development does require a notification.*

### **Example 2: Including special category substances in relation to consumer products only**

- ii. Any activity involving, in any one calendar year, the use of more than a total of 100 kg of the substance in a consumer product — as defined in section 2 of the Canada Consumer Product Safety Act —, including any of its components.

*In this example, any activities (including all three special categories) related to the use of the substance in consumer products are included and require notification.*

### **Example 3: Including all special category substances except in a specified use**

- iii. Any activity involving, in any one calendar year, more than 100 kg of the substance, other than an activity related to its use as an antioxidant in fuels or lubricants.

*In this example, all special categories are subject to notification unless they involve the use of the substance solely as an antioxidant in fuels or lubricants.*

In those cases where a SNAc notice has been issued before a substance is eligible for addition to Canada's Domestic Substances List (DSL), the substance involved in a special category activity may be subject to both the SNAc notification requirements, as well as the notification requirements under Schedules 1 or 3 of the Regulations.

### **Contact information**

If you have any questions, please contact the Substances Management Information Line:

Telephone: 1-800-567-1999 (toll-free in Canada)  
1-819-953-7156 (outside Canada)  
Facsimile: 1-819-953-7155  
E-mail: [substances@ec.gc.ca](mailto:substances@ec.gc.ca)

For additional information or documentation regarding the Regulations, please visit the New Substances Web site at [www.ec.gc.ca/subsnouvelles-newsubs/](http://www.ec.gc.ca/subsnouvelles-newsubs/).

Greg Carreau  
Executive Director  
Program Development and Engagement Division  
Environment Canada

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