



CHEMISTRY INDUSTRY
ASSOCIATION OF CANADA

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L'INDUSTRIE DE LA CHIMIE

November 17, 2020

The Honourable Jonathan Wilkinson, P.C., M.P.
Minister of Environment and Climate Change Canada
c/o The Executive Director Program Development and Engagement Division
Department of the Environment
Gatineau, Quebec K1A 0H3
eccc.substances.eccc@canada.ca

Dear Minister Wilkinson,

RE: Notice of Objection and Request for Board of Review in relation to the Proposed Order to add plastic manufactured items to Schedule 1 to the *Canadian Environmental Protection Act, Canada Gazette, Part I, Volume 154, Number 41: Order Adding a Toxic Substance to Schedule 1 to the Canadian Environmental Protection Act, 1999*

I am writing to you today on behalf of the members of the Chemistry Industry Association of Canada (CIAC). CIAC is the Association for Canada's chemistry and plastic sector leaders, innovators, solution providers, and world class stewardship pioneers. Representing an \$80 billion industry, our members transform raw materials like natural gas liquids, oil, minerals, electricity, and biomass into the building blocks needed to manufacture some 70,000 products that we depend on every day.

CIAC's Plastics Division represents Canada's leaders in plastics industry sustainability – a \$28 billion sector that directly employs over 93,000 Canadians. The Division encompasses the entire plastics value chain, including resin and raw material suppliers, processors/converters, equipment suppliers, recyclers, and brand owners.

This submission responds to the October 10th, 2020 Gazette Notice ("Notice") in which the Governor in Council, on the recommendation of the Minister of the Environment ("Minister"), proposed an Order to add "Plastic Manufactured Items" to Schedule 1 of the *Canadian Environmental Protection Act, 1999* ("CEPA") (hereafter referred to as "Proposed Order"). The Association formally objects to the Proposed Order, and requests that you establish a Board of Review under section 333 of the *Canadian Environmental Protection Act* (the Act) to review the recommendation.

No Screening Assessment Completed:

Section 74 of the Act requires that a screening assessment be completed in order for the Minister to subsequently add a substance to Schedule 1 under Part 90 of the Act. It is our view that the final science assessment of plastic pollution is not a screening assessment. Moreover, it is our view that a screening assessment of plastic pollution is not a screening assessment of all 'plastic manufactured items' – and therefore there is insufficient basis for the broad category identified in the Proposed Order.

In order to satisfy the requirement for a screening assessment, the government's own precedent requires that a draft screening level risk assessment (DSLRA) be completed. To our knowledge, the DSLRA has not been completed. Had that occurred, it is our view that the conclusion would have differed and would not have led to such a broad designation. Similarly, it is our view that had a proper risk assessment been conducted, there is a significant weight of evidence suggesting that the risk to the environment is not from plastic manufactured items; nor is the risk related to the physical/chemical properties of the designated items contemplated by the Proposed Order. A Screening Level Risk Assessment would have established that.

CIAC members maintain that a Board of Review is warranted as the Proposed Order to add plastic manufactured items to Schedule 1 is based on a process which is inconsistent with previous Chemicals Management Plan (CMP) screening assessments ("Assessments"). The Proposed Order was not offered for public comment in a draft form where more narrow options, if applicable, could have been canvassed as is established practice under the CMP. This is a significant deviation from the previously established CMP process.

Plastic Manufactured Items are not Toxic:

The Science Assessment of Plastic Pollution correctly identifies the potential harm associated with the presence of plastic in the environment as a result of pollution. The Proposed Order is not nearly so specific. The Proposed Order applies to every single piece of plastic in Canada, without exception, irrespective of how it is disposed of. There are at least two intervening steps that must occur before alleged risk to the environment has the opportunity to present itself: the plastic manufactured item has to be used by a consumer and the plastic manufactured item has to be improperly disposed of. A potential third intervening act – poor municipal waste management practices – could also contribute to the potential environmental risk. To declare the plastic manufactured item as "CEPA Toxic" when multiple subsequent intervening acts contribute to the adverse outcome ignores the true cause(s) of the unacceptable risk. The risk to the environment comes not from the item, but the behaviours, decisions and/or contract obligations of consumers, waste management groups and municipalities.

The tradition of the Chemicals Management Plan is that materials are not found to be toxic when the exposures of concern do not emanate from an intended use. In the issue at bar, the identified

risk does not come from the plastic item itself. Rather, it emanated from how the plastic is improperly disposed of AFTER its intended use.

Furthermore, it is our considered view that the “Science Approach Document” has been completed without a complete view of the best available science. The use of the established DSLRA approach under the CMP would have led to a more fulsome review of the cannon of scientific literature and its application to specific instances of pollution in Canada. We have attached an appendix of studies that could be used to evaluate the conclusions reached in the final science document.

With that in mind, it is our view that the use of a complete collection of the best available science would not have resulted in the conclusion that plastic manufactured items, as a broad category, “may cause adverse effects to aquatic organisms in certain Canadian environments.” Nor do all plastic manufactured items “have the potential to cause ecological harm.” Simply put, not all plastic manufactured items have the potential to cause the ecological harm identified in the science assessment of plastic pollution. The designation, if required at all, requires more precision to target the individual chattels which are of concern.

There is nothing in the science assessment of plastic pollution justifying such a broad categorization.

Government Commitment to Sound Science:

As a government committed to sound science, we believe the establishment of a scientific panel to review the work of the government is required. This is consistent with the Prime Minister’s instructions in the Minister’s mandate letter to ensure that “(t)he Government of Canada is committed to strengthen science in government decision-making and to support scientists’ vital work.”

It is our view that the public has a right to have the science underlying any Proposed Order tested by the best available scientific minds. A government that is committed to transparency and scientific rigour should not have any objection to such a test. To categorically state that all plastic manufactured items present the risks identified in the science assessment of plastic pollution is not supported by the conclusions made in the document or the exposure scenarios upon which the document is predicated. Moreover, ECCC’s *Economic Study of the Canadian Plastic Industry, Markets, and Waste (2019)* indicates that plastic leakage (pollution) into the environment from Canada is one per cent. While continuous improvements in consumer behaviour and business practices are warranted, a one per cent leakage into the environment does not justify the Proposed Order applying to all ‘plastic manufactured items’ nor is there evidence that the broad designation would address the behaviours causing the environmental leakage. A Board of Review would challenge the conclusions of the science assessment and act as a check to non-peer reviewed data upon which the exposure scenarios are based.

Finally, the government itself identified limitations in the Science Assessment. This includes “significant data gaps ... that preclude the ability to conduct a quantitative risk assessment.” The government itself called for additional study to determine the scientific factors and consequent risks associated with plastic in the environment. We believe that this is proof of its own truth of the need for an independent Board of Review to ensure that the decisions being made on admittedly incomplete science are as robust as possible. An independent panel has no vested political interest in the outcome of their investigation. The admission by the government of these specific gaps in the literature calls for the very information which could be used by the Minister to reconsider its proposed order.

We are pleased to provide you with the names of experts who could sit as panel members in the event you elect to empanel a Board of Review.

Sincerely,



Bob Masterson
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c.c.: Hon. Patty Hajdu, Minister, Health Canada

Attachment