

December 08th, 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
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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 published Saturday, October 10th, 2020
<http://www.gazette.gc.ca/rp-pr/p1/2020/2020-10-10/html/reg1-eng.html>

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"). Instituto Brasileiro do PVC 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.

As the Canadian government is planning to deem plastics as toxic under Schedule 1 of the Canadian Environmental Protection Act (CEPA), we are writing to you today from the Instituto Brasileiro do PVC to express our opposition to any proposed regulation on this matter, and specifically, to note the lack of reliable scientific evidence to support this action from the government, and the absence of a robust and thorough consultation with both industry and the public on this matter.

Instituto Brasileiro do PVC represents the entire PVC chain in Brazil whose components are raw materials, additives, resin, compounds and PVC products manufacturers, besides recyclers. Among our goals is the dissemination of technical information and sustainability matters about PVC and its applications on a scientific and technical basis. We are very concerned with possibility of such decision against plastics spread to other countries and regions. The negatives consequences will be enormous not only to the economy but also to the well-being of the society in general.

These proposed actions seem to be driven by political will rather than environmental compliance and protection on the subject of waste management. The fact that this regulation is being "fast-tracked" through the system at a time when most people are distracted by our current COVID-19 pandemic emergency, and without a rigorous "risk assessment" process which Canadians and Canada's trading partners have come to expect and rely upon, is of great concern.

The timing of this action is particularly ironic considering the vital and immeasurable role plastics represent in protecting patients, front-line workers, and the general public during the Covid-19 pandemic in keeping the virus at bay. With more pandemics predicted for the future, the fact remains that plastics will continue to play a vital role in controlling viral infection transmission. Plastics are used in a wide variety of applications in our daily lives and are a key contributor to protecting our health and safety, and particularly in the extenuating circumstances we currently find ourselves in world-wide.

Plastic products are chosen because of their safety, durability, product performance, low carbon footprint, and economic benefits, in addition to their numerous environmental benefits compared to any other man-made materials -- from energy savings due to reduced weight in vehicles, sterility and safety in healthcare, and improved energy efficiency in the building and construction sectors as only several examples.

Plastics in Society:

The health and well-being of our society relies upon, but is not limited to the following benefits of plastics products in societies around the world, and in particular for the vulnerable members of our communities:

- Life sustaining health care products including bags/tubing for blood and other treatment fluids, as well as blood pressure cuffs and vascular therapy sleeves
- Surgical masks, gloves, protective gowns and other personal hygiene products.
- Protective suits for exposure to hazardous materials
- Coatings for virtually all wire and cable products to control risk of fire
- Hospital wallcoverings and upholstery which allow for safe disinfection of patient rooms and treatment areas
- Laboratory piping used in health facilities and hospitals
- Domestic water, sanitary sewage and electrical piping systems in buildings
- Municipal infrastructure to supply drinking water as well as to maintain sanitary conditions through sewer and stormwater piping systems
- Geotextiles and vinyl sheet piling in road and dam construction
- Windows, doors, skylights, siding, fencing, railings, decking, sheds, housing panels and flooring
- A wide range of automobile components such as seating, dashboards, fenders and door assemblies
- Articles for identification and financial transactions such as driver's licences, health cards and credit cards, and
- Recreational equipment including arena and stadium seating and wall padding.

No Screening Assessment completed:

The value and safety of plastic products has been demonstrated over many decades and is supported by sound science and research which needs to be taken into account in evaluating whether such a regulation, and broad-sweeping regulation at that, is required. People want to continue to freely choose plastic products in their day-to-day lives. We do not support any regulation that impairs people access to provide these products to their families or work environment either as citizens or employees who rely upon these products every day for a myriad of applications. Plastics protect us, and are vital to daily life our health, safety, and well-being.

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.

Instituto Brasileiro do PVC maintains 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.

The current approach by regulators to make a blanket determination that all plastics are "toxic" and to potentially ban these products is neither well thought out, nor has provided an adequate opportunity for science, the public, or industry to participate in an organized and methodical discussion or approach to the matter. We therefore, and respectfully, ask you to stop all current actions designed to insert this regulation on Schedule 1, which is a substance list, not a list for "plastic manufactured items", and to honor your responsibility to citizens to pursue the necessary due diligence in accordance with appropriate "risk assessment" protocols.

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 assessment of plastic pollution 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.

The government itself identified limitations in the science assessment of plastic pollution. 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 the proposed order.

A Board of Review would challenge the conclusions of the science assessment of plastic pollution and act as a check to what we believe is non-peer reviewed data upon which the exposure scenarios are based. If the science assessment of plastic pollution has in fact been peer reviewed, no details have been provided on who conducted such a review and what the findings were.

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.

Faulty Public narrative:

It is also of great concern that the current narrative on plastics from the Canadian government seems to mislead the public into believing that plastics are "toxic", which they are not.

We would respectfully request that the Canadian government develop a more accurate and balanced narrative on this issue of pollution and develop a more responsible communications plan to ensure that the public understands the issue completely.

We urge the government to work instead to find solutions with the intention to collaborate with industry who have already been working hard to develop new recycling and disposal technologies.



Bans are very rarely the answer, are fundamentally short-sighted, oppose the free will of the people, and may cause more harm than good due to the lack of alternatives, and with existing alternatives causing more environmental damage than plastics.

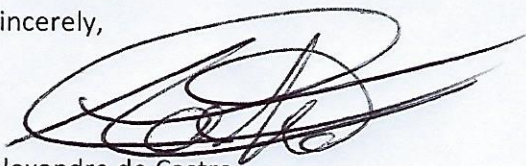
Create Solutions not Bans:

The enormity of the consequences from this kind of hasty regulatory approach will be devastating to Canadian lives and to the Canada economy in both the short and long terms, and seem not to have been taken into consideration in a scientific or societal way based on the information provided by the government to date. And, as evidenced by the complete economic global devastation due to the pandemic, this regulatory change will act as another significant blow to the Canadian economy.

We ask you to please seek solutions that will bear positive outcomes rather than bans; bans serve only to create negative pressure, add unreasonable burdens to all of society, and cripple civil liberties. Waste of all kinds will be a societal concern for centuries to come, and with the expected and significant growth in the global population in the coming 25 years, we must find solutions for all waste.

We argue that there are potentially tens of thousands of jobs waiting to be created to address the management of waste of all materials in society, not just plastic. We encourage the Canadian government to show long-term leadership in this milieu, and lead the way to a cleaner and greener society through innovation, collaboration, and public outreach strategies, all of which we believe is certain to advance Canada's social, environmental, and economic standing domestically and abroad, while maintaining the integrity and value of plastic in society-- which is arguably one of the most important inventions of our time!

Sincerely,



Alexandre de Castro
President
Instituto Brasileiro do PVC

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CC: Hon. Patty Hajdu, Minister, Health Canada