

The Honourable David Anderson, P.C., M.P.
Minister of the Environment
Room 133, East Block
House of Commons
Ottawa, Ontario
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December 28, 2001

Dear Minister Anderson,

I formally serve a notice of objection to the proposed *Order Adding Toxic Substances to Schedule 1 to the Canadian Environmental Protection Act, 1999*, (CEPA) with respect to salt. The proposed legislation should not go forward because:

i. **Road salt does not fall under CEPA jurisdiction, as per the intent of CEPA**

If one takes interpretation to an extreme, roads themselves would be considered toxic under CEPA. Road construction includes the introduction in the environment of more than one substance, such as gravel and pavement, that:

“is entering or may enter the environment in a quantity or concentration or under conditions that

(a) have or may have an immediate or long-term harmful effect on the environment or its biological diversity;

(b) constitute or may constitute a danger to the environment on which life depends;”

The strip of land that is cleared and then covered over to become a road is a highly disturbed and perhaps even a destroyed habitat. However, it is not the intent of CEPA to include under its jurisdiction the contained effects of urbanization. The road, the ditch and the narrow strip of land that are affected by the use of road salt are all confined areas. The effects of road salt use in these areas is not reflected in the overall environment or ecosystem. As the materials from which the road is made are not considered toxic under CEPA, neither should salt applied to that narrow strip of land. These are all a part of the habitat disturbed by the construction and use of the road itself.

ii. The proposed legislation represents a duplication of regulatory oversight

While sensitive areas may indeed be affected by the use of road salts, these elements are already covered under the *Canadian Environmental Assessment Act* (CEAA). Prior to the undertaking of a major construction project the CEAA requires that an assessment of the potential environmental impacts of the project be carried out, including an assessment of the potential impacts on sensitive areas. As such, road construction and its potential impacts on the environment are subject to evaluation under the CEAA. Approval of the proposed legislation would represent an unnecessary and costly regulatory burden on Canada's taxpayers, and is therefore in contravention of the *Government of Canada Regulatory Policy*.

iii. The proposed legislation encroaches on provincial authority

Provincial governments in Canada are responsible for the protection of the natural resources in their provinces. Therefore, decisions regarding the application of road salts should be made at the provincial level. While officials from Environment Canada, who administers CEPA, may provide valuable advice to provinces, they lack the expertise to weigh critical factors, such as the potential for damage to property, to human life and to persons (for example, long-term disability due to traffic-accidents). It is reported in the Regulatory Impact Analysis Statement (RIAS) that more road salt is used in Ontario and Quebec than in other provinces. However, the RIAS fails to take into account the greater population and urbanization in the provinces of Ontario and Quebec, or climatic factors, to help explain such regional trends. A lack of expertise (or a bias) on the part of the authors of the RIAS is clearly indicated.

I thank you for the opportunity to provide comments regarding the proposed *Order Adding Toxic Substances to Schedule 1 to the Canadian Environmental Protection Act, 1999*, (CEPA) with respect to salt, and trust that they will be given full consideration.

Respectfully yours,



J.A.L. Bowman, M.Sc.
600 Laurier Ave W, Apt 6
Ottawa, ON
K1R 6L1