

December 8, 2020

Hon. Jonathan Wilkinson P.C.,  
Minister's Office  
Environment and Climate Change Canada  
351 Saint-Joseph Blvd.  
Gatineau, Quebec, K1A 0H3

M.P. Hon. Patty Hajdu, P.C. M.P.  
Minister's Office  
Health Canada  
Brooke Claxton Building, Tunney's Pasture  
Ottawa, Ontario, K1A 0K9

Andrea Raper  
Executive Director  
Program Development and Engagement Division  
Environment and Climate Change Canada  
351 Saint-Joseph Blvd.  
Gatineau Quebec, K1A 0H3

by email at [eccc.substances.eccc@canada.ca](mailto:eccc.substances.eccc@canada.ca)

fax: 819-938-5212

**Re:                   Planned addition of "plastic manufactured items" to Schedule 1 of CEPA**  
**NOTICE OF OBJECTION**

Dear Ministers Wilkinson and Hajdu and Executive Director Raper:

I am filing this notice of objection and requesting a board of review per section 333 of the Canadian Environmental Protection Act (CEPA) 1999 for the Order Adding a Toxic Substance to Schedule 1 to the Canadian Environmental Protection Act, 1999, particularly the addition of "Plastic manufactured items" to Schedule 1.

The order was published in the Canada Gazette, Part I, Volume 154, Number 41: Order Adding a Toxic Substance to Schedule 1 to the Canadian Environmental Protection Act, 1999 on October 10, 2020.

I work for Kafrit NA Ltd. Kafrit NA Ltd. has been in operation in Langley, British Columbia, Canada for twenty years. Our production site produces crosslinkable polyethylene compound which is sold to pipe and tubing producers across North America. The pipe and tubing produced from our product is typically installed in Canadian homes for potable water use and meets high levels of product performance, durability, and safety. Plastic tubing originating from our facility is used in millions of homes across

North America. While directly employing just over twenty Canadians, our plant supplies Canadian production sites of our customers, who in turn supply wholesalers and retailers across North America, generating hundreds of jobs for Canadians.

I hope that my input will be accepted at this time even though this process has been in the works for several months. I am very concerned that the government's attitude to the problem of plastic pollution (litter) may be prejudiced when I read the following quote:

*"Plastic pollution is everywhere. It already fills our rivers, our lakes and our oceans, and harms wildlife that call those places home," said Peter Schiefke, parliamentary secretary to the federal minister of environment and climate change. (Vancouver Sun, November 14, 2020, story by Jennifer Saltman)*

**Our rivers, lakes and oceans are not full of plastic pollution!** Yes, there is some pollution, but the parliamentary secretary is either misinformed or misleading Canadians about the severity of the problem. Much of the rhetoric in the media surrounding the issue of plastics in the environment is unhelpful. The organizations pushing for action may exaggerate the extent of the problem to increase financial contributions from donors especially in these economically uncertain times.

I would be less concerned about the integrity of this process if the above statement had not been made. It indicates that government members may have a prejudice that they are not able to put aside in order to look at data and the input of Canadians, before making decisions about our industry and our lives.

The Government is attempting to solve the perceived problem of plastic pollution, particularly the identified problem of plastic pollution in the world's oceans. To be very clear, **plastic waste and plastic pollution are not the same thing**. Over 99 percent of all plastic is disposed of properly in Canada. There are a limited number of routes that plastic gets into the environment in Canada. Two of these are litter by individual Canadians, and along our coasts, the loss and wreckage of fishing gear and vessels. It would at least be more effective to identify "plastic litter" as toxic and include it in schedule 1 of CEPA than to throw out the baby with the bath water and declare all "plastic manufactured items" as toxic.

I disagree with the governments intent to add "plastic manufactured items" to Schedule 1 of the Canadian Environmental Protection Act. I think this is a gross misuse of the Act. Schedule 1 for the most part identifies either specific chemicals or groups of chemicals. Only recently have "plastic microbeads  $\leq 5$  mm" been added to Schedule 1 which I also think was a mistake in that it did not specify individual polymers.

#### **Problems with or resulting from addition of "plastic manufactured items" to CEPA Schedule 1:**

1. There is no clear definition of "plastic manufactured items". Are naturally occurring polymers or plastics included? Is it packaging only, or all manufactured goods, or even constructed items like homes and factories? Is the definition of "plastics" to be broad that is inclusive of inorganic materials with large molecules made up of repeating units as well?



2. The science assessment used to make the determination that “plastics manufactured items” should be added to schedule 1 of CEPA 1999 was not a science assessment of “plastic manufactured items, but a science assessment of plastics pollution. This is very important, since to be fair a science assessment of “plastic manufactured items” would offer an opportunity to introduce a great deal of exculpatory data regarding the positive impacts of “plastic manufactured items” on Canadian health and the Canadian environment.
3. The Science Assessment of Plastic Pollution does not in its Findings (pages 81 and 82) state that plastics pollution is toxic. In the Findings, the authors only mention the need for more study of “potential toxicity” and more specifically understanding of potential “ecotoxicological effects of microplastics”. Beside the recommendation for further research to only other recommendation of the science assessment document is this: “In accordance with the precautionary principle, action is needed to reduce macroplastics and microplastics that end up in the environment.” (Science Assessment of Plastic Pollution, page 82)
4. The Science Assessment of Plastic Pollution contains a considerable body of research work. It seems that most of the researchers started with the premise that (micro or macro) plastics are harmful and did research that attempted to demonstrate their beliefs. Has there been a research bias assessment on all the research papers and reports used in the science assessment? This is not so much to exclude any research, but rather to make sure that there is a balance of work reported by “both sides”. I think that we must be aware that researchers will have biases and that it can affect reporting of results.
5. The precautionary principle is being misused or misapplied if it is the basis for the addition of “plastic manufactured items” to Schedule 1 of CEPA 1999:
  - a. There has not been an assessment of the economic cost (both to industry and to the Government) that the proposed addition to Schedule 1 will result in. Government must demonstrate that the economics of using the precautionary principle as the basis for addition of “plastic manufactured items” or any version thereof to schedule 1 of CEPA 1999 are “cost effective measures”.
  - b. The precautionary principle also requires that there be “threats of serious or irreversible damage”, however the Science Assessment of Plastic Pollution does not make a case that any plastic pollution by Canadians or in the Canadian environment is posing a threat of serious or irreversible damage. It is by implication that the precautionary principle only applies to threats to the Canadian environment or caused by Canadians. As unfortunate as it is, whatever is happening outside of the context of the Canadian environment and Canadians is not relevant to whether there is a threat or not.

- c. Since the Government took the opportunity to release its A proposed integrated management approach to plastic products<sup>1</sup> to prevent waste and pollution DISCUSSION PAPER on the same day as it published the proposal to amend Schedule 1 to include plastic manufactured items, we can evaluate the plausibility of the Government's proposals being able to reduce threats of serious or irreversible damage. An appraisal of the proposed management approach does not yield any proposed actions with the goal of immediately decreasing threats of serious or irreversible damage. There is no evidence that bans or restrictions on the six single use plastic items that the government is proposing will reduce overall pollution or prevent serious or irreversible environmental damage. Similarly, the Government's proposals regarding enhancing recycling also have no demonstrable linkable to reduction of threats of serious or irreversible damage.
6. The threshold for addition to schedule 1 of CEPA 1999 is generally understood to be that the substance is "inherently toxic". In other words, for a substance to be added to schedule 1 its toxicity must be a permanent, essential, or characteristic attribute. Toxicity is not dependent on the shape of an article, or its temperature, or its color, or its density.
7. "plastic manufactured items" is an overly large category by whatever definition. Millions of tons and millions of different products suddenly would be subject to CEPA. This would be the largest single "substance" added to the schedule by volume or by value. This could potentially force significant (huge) changes in Government operations per CEPA 1999 compliance. These changes are significant enough that they should be examined more thoroughly by elected representatives in the House of Commons.
8. The inclusion of "plastic manufactured item" in schedule 1 of CEPA will dilute the meaning of the word "toxic" vis a vis CEPA, but also in common use. If lead, mercury, asbestos, arsenic compounds, hexavalent chromium and now "plastic manufactured items" are all toxic, shouldn't we regard them similarly? We are all familiar with plastics, so will we give ourselves permission to treat products containing asbestos the same way as we treat plastic products?
9. This would be either the first or one of the first instances where mechanical harm instead of purely chemical or biochemical interaction becomes a criterion for "toxic". Plastic manufactured items are in no way like the majority of the chemical substances on the schedule many of which, even to the uninitiated are well known to be toxic. This is akin to saying that a stabbing victim suffers from "metal toxicity".
10. This begs the question, should "metal manufactured items" and "glass and ceramic manufactured items" be run through the same assessment processes?

---

<sup>1</sup> The Government is advised that it is very confusing to readers when terms are not consistently used. I am assuming that "plastic products" are equivalent to "plastic manufactured items" and that the discussion paper in question is applicable to this Notice of Objection.



11. There has been a process over several years examining many different polymers to determine if the individual polymers met the CEPA requirement for Schedule 1. Overwhelmingly the answer to those reviews was that the polymers studied (plastics in their raw form) were not environmentally toxic. This appears to be a case of “double jeopardy” where the same materials are being reviewed a second time with a prejudice toward having them added to Schedule 1 because the first time through the process did not have the desired result.
12. Because the potential category is so large it allows for many more opportunities for negative data to be generated against the whole category. This is the problem of “tossing out the baby with the bath water”. When looking at individual chemicals if one chemical has no identified risks and another has identified risks, we regulate only the problem chemicals. We do not then say that all chemicals are risky, invoke the precautionary principle, and regulate everything.

I am concerned that putting “plastics manufactured items” on Schedule 1 of CEPA will send the wrong message to Canadians. Usually when consumers hear that there is a risk of toxicity with a product that they own, their first instinct is to discard it into the trash. If the government’s objective is to decrease plastic pollution, it seems to be a potentially counterproductive approach. Has this been considered?

I would like to encourage the Government to join with industry in supporting inquiry into all aspects of management of plastic pollution in the environment and its effects. A priority of Government should be to gather data clearly quantify the types and amounts of plastic litter entering the Canadian environment instead of relying on dated estimates from non-Canadian researchers. There certainly can be more work done to identify routes by which plastic litter enters the environment and to then develop focused approaches to close those routes. Government should also identify the most effective ways to remove plastic litter from the environment. For example, cooperation between the Department of Fisheries and Oceans and provincial governments could help address sources of lost or abandoned fishing gear.

I am encouraged in reading that the Government has an interest in filling the key knowledge gaps identified in the report Science Assessment of Plastic Pollution (Executive Summary, page 11). It is often observed that in discussions about human interaction and influence on the environment that feelings are sometimes disguised as facts. This is because our involvement causes us to a need to place blame, deflect blame, and if blame is being meted out, to exaggerate the damage done. An honest factual approach is needed.

I hope that the Government modifies its approach to the problem of plastic pollution. If the Government focuses on “plastic litter” as opposed to “plastic manufactured items” at the very least some of the intent of the CEPA 1999 legislation will be preserved. If the government leads Canadians in efforts to prevent littering (plastic or otherwise) by individuals and to promote removal of litter (plastic or otherwise) from the environment the efforts of Government can be successful within a relatively short timeframe.

Since the issue of plastic pollution has been largely brought to the public consciousness by things that are happening in international waters and on the shorelines of other nations it will be helpful if Government works more diligently internationally to address the problem of plastics pollution and pollution in general. It seems that by working internationally with people taking trash out of the oceans and off of shorelines, Canada can easily become a net remover of plastic pollution rather than a contributor to the problem.

The precautionary principle is often cited when Government takes action to add substances to Schedule 1 of CEPA 1999. The precautionary principle may be a double-edged sword. Canadians know the status quo. We might not know all the elements of the status quo, but we know more about the status quo, that is plastic manufactured items not being considered toxic, than the any alternative resulting from a radically changing regulatory regime. For instance, if as a result of CEPA 1999, Schedule 1 listing it becomes more difficult to dispose of plastic items at landfills with higher tipping fees, illegal dumping of plastic and other waste in the environment may increase substantially. Has this been considered?

The Government should be very careful in its approach because a great deal of harm to Canadians and to the Canadian environment could be done if the Government does not get it right. Adding "plastic manufactured items" to CEPA 1999, Schedule 1 will be detrimental if it results in a dilution in the meaningfulness of a Schedule 1 listing for other significantly more harmful substances. Government has significant but not limitless resources at its command which could easily be squandered with initiatives that could at best have no positive impact, or at worst make pollution problems worse. For example, making it more difficult or expensive to manage scrap or waste plastics will lead to increased illegal dumping into the environment.

It is my hope that the Government carefully considers its next actions in this matter and follows logic and facts rather than rhetoric and ideology in making its decisions. Do so will be to the benefit of Canadians and our environment.

Sincerely,

A handwritten signature in blue ink, appearing to read 'RS', is positioned above the typed name.

*Robert Samplonius – Lab Manager*