



March 18, 2016

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RE: Proposed Regulations for Microbeads

On behalf of the Canadian Plastics Industry Association (CPIA), the Chemistry Industry Association of Canada (CIAC) and the American Chemistry Council (ACC), please accept these comments regarding the proposed legislative activities related to microbeads.

Our primary reason for sending these comments to you now is to encourage Environment and Climate Change Canada (ECCC) to move forward with the revised proposed Schedule 1 listing and the Explanatory Note that were circulated to stakeholders on January 12, 2016.

Since August 2015, the three associations have been very involved in consultations with ECCC regarding the proposed Schedule 1 listing for microbeads as well as the risk management regulations. As noted in previous communications with ECCC staff and outlined in our comments below, the associations support the government's direction in regulating the use of microbeads in personal care products, but have expressed our concern around the broad scope of the listing language.<sup>1</sup> We have worked closely with ECCC to share information and develop language for the Schedule 1 listing, in addition to the accompanying Explanatory Note, that accurately reflects the intended scope of the regulation.

As part of our previous consultation, we have encouraged ECCC to limit the upper size range of the proposed listing. We believe we were able to demonstrate to ECCC officials that their own science supports an upper bound listing of 1 mm. While industry prefers a 1 mm upper bound, we understand 2 mm was proposed by officials to provide a buffer or margin of safety. We do not believe there are any

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<sup>1</sup> <http://www.gazette.gc.ca/rp-pr/p1/2015/2015-08-01/html/reg1-eng.php>

scientific reasons to have an upper limit of 5 mm, and it is further not supported by the Science Summary.

While the currently proposed upper limit of 2 mm does not match that listed in the US regulations it is important to note the US laws clearly define the microbeads to be regulated as those used in personal care products, whereas the proposed Schedule 1 listing does not include reference to the function of the microbeads. Given this fundamental difference, there is no basis for regulatory harmonization on these numbers.

The context and consequences of a 5 mm upper bound are very different in the regulatory systems of the US and Canada. Arguments made to support the 5 mm upper bound based on regulatory consistency with the US are not sound. The development and legislative history of the US and Canadian proposals are different. The US discussion and decision to include 5 mm as the upper limit was based on consensus consultations in the context of their particular regulations, whereas the Canadian 2 mm limit is based on science as well as consultations. As noted above, US laws clearly define the regulated material as microbeads from personal care products that are used to exfoliate or cleanse the human body.

In the case of the proposed Canadian regulation, the risk is specific to the presence of manufactured plastic beads added in the formula as cleansing agents or exfoliants in consumer products. It is a technical fact that beads used in this type of application do not approach 5 mm, and if they did, the face wash (or similar application) would look like rice pudding.

Confining the size range to a 2 mm limit that is most consistent with the practical application of concern and to what the science indicated was warranted is critical in order for the Canadian government to be able to take efficient action and to not unnecessarily target/burden products which are not relevant to this concern.

Further, it should also be noted that the upper limit of 5 mm goes back to the definition of “microplastic” from a NOAA workshop on marine debris<sup>2</sup>, where:

“The Workshop participants defined microplastics as plastic particles smaller than 5mm....The maximum size was chosen to focus the microplastics discussion on possible ecological effects other than physical blockage of gastrointestinal tracts. Though ‘micro’ infers the need for microscopy to view these plastic pieces, due to the early state of research the Steering Committee chose not to exclude visible components of the small plastic spectrum and thus set the upper limit at 5mm. Perhaps when the science advances, ‘small plastics’ that can be seen without the aid of microscopy will be assigned to a separate category and only microscopic polymer fragments will be included as ‘microplastics’.” (p. 10).

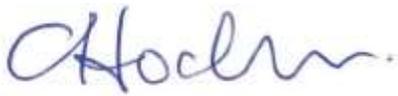
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<sup>2</sup> <http://marinedebris.noaa.gov/file/2192/download?token=5dvqb-YY>

As a final note, the three associations would like to express our satisfaction with the consultation opportunities that were provided by ECCC around microbeads since October 2015. We believe the result of those discussions (namely, the revised proposed Schedule 1 listing and the Explanatory Note that were circulated to stakeholders on January 12, 2016) is a huge improvement compared to what was proposed in Gazette 1 by the previous government in the absence of consultations. We urge that what was circulated on January 12, 2016 be issued in the Canada Gazette Part 2 as soon as possible.

We appreciate the opportunity to express our views, and will make ourselves available for follow-up discussions, if you have any questions.

Sincerely,



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Canadian Plastics Industry Association



Bob Masterson  
President and CEO  
Chemistry Industry Association of Canada



Steve Russell  
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American Chemistry Council

Cc via email:

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