



August 31, 2015

Astrid Telasco
Director, Products Division
Environment Canada
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351 St. Joseph Blvd, 9th Floor
Gatineau, QC K1A 0H3

Re: *Notice of intent to develop microbeads regulations and publication of a science summary report on microbeads* (Canada Gazette, Part 1: Vol. 149, No. 31 – August 1, 2015)

On behalf of the Canadian Plastics Industry Association (CPIA) and the American Chemistry Council (ACC), please accept these comments on the *Notice of intent to develop microbeads regulations and publication of a science summary report on microbeads* (Canada Gazette, Part 1: Vol. 149, No. 31 – August 1, 2015). The comments we provide below are focused on the Notice of Intent to Regulate Microbeads (the “Notice”) and not on the technical aspects of the Science Summary. Comments on the technical aspects of the Science Summary and the proposed *Order Adding a Toxic Substance to Schedule 1 to CEPA 1999* (the “Order”) will be submitted separately and, as noted below, we are asking that you extend the deadline to submit those comments for an additional 30 days in order to allow for a more complete independent review of the Science Study.

Between our associations, CPIA and ACC represent a broad spectrum of North American plastics manufacturers, processors and convertors. The CPIA (www.plastics.ca) is the national voice for plastics in Canada. With more than 3,170 companies employing 95,400 workers, Canada’s \$29.2-billion plastics industry is a sophisticated, multi-faceted sector encompassing plastic products manufacturing, machinery, moulds and resins. The Plastics Division of the ACC (<http://plastics.americanchemistry.com>) represents leading manufacturers of plastic resins – the basic building blocks for products that can help us do more with less and contribute to a more efficient use of resources.

As you may be aware, CPIA and ACC have taken many actions to reduce plastics in the marine environment. In 2011, along with our global colleagues, we launched the *Declaration of the Global Plastics Associations for Solutions on Marine Litter*. Since that time we have initiated more than 185 projects to reduce marine litter. One of these projects includes support for the phasing out of microbeads from personal care products in a number of jurisdictions (www.plastics.ca/home/news/microbeads.php; www.americanchemistry.com/Media/PressReleasesTranscripts/ACC-news-releases/Plastics-Makers-Applaud-NJ-for-Moving-to-Phase-out-Synthetic-Microbeads-in-Personal-Care-Products.html).

CPIA supported Environment Canada's initial scope of regulating microbeads from personal care products for the purpose of exfoliating and cleansing (www.plastics.ca/Newsroom/Issues/index.php). Both CPIA and ACC support these policies because microbeads in personal care products are designed to go "down the drain", and because many wastewater treatment plants are not currently able to remove the size and type of microbeads used in these products. However, we cannot support the expansion of a substance definition that essentially adds all types of plastic with a particle size greater than 0.1 micron and less than or equal to 5 mm in size to Schedule 1 of the Canadian Environmental Protection Act, 1999 without any connection to intentional disposal into water as set out in the proposed Order.

Our specific concerns with the Notice relate to the following areas:

- The scope/definition presented;
- The lack of consultation with stakeholders other than with a few representatives of the personal care product sector; and,
- The lack of rigour around the supporting Science Summary.

Scope/Definition Presented in the Notice

The wording of the notices, and the rationale as set out in them, do not support the broad scope set out in the draft Order. While perhaps unintended, failing to narrow the scope would present very serious implications to the plastics industry and other sectors on both sides of the border.

In the preamble of the subject Notice and throughout the *Notice with Respect to Microbeads in Certain Personal Care Applications* (also published in the Canada Gazette on August 1, 2015), the scope of the substance to be regulated is stated as "microbeads from personal care products that are used to exfoliate or cleanse" where the substance may be released to water. The principal rationale for the proposed regulatory activities is appropriately limited to only those microbeads. However, in other portions of the Notice, the scope is broader. The Notice refers to "microbeads" and the accompanying draft Order proposes to add particles "greater than 0.1 micron and less than or equal to 5 mm in size". This approach to designating what is "toxic" pursuant to S.64(a) dramatically expands coverage to all plastics manufacturing and importing within Canada, and does so without any sufficient rationale in the regulatory text of the Notice.

The resulting broad scope is a major concern to CPIA, ACC, and our members. We feel strongly that additional consideration must be given to the potential unintended impacts of the Notice and the proposed Order. For example, this proposed action would apply a "toxic" label to the raw materials used in plastic food packaging. The scope of materials which may be required to be regulated pursuant to any subsequent actions following the addition to Schedule 1 is overly broad and unjustified. This can be avoided by narrowing the proposed listing to focus on microbeads included as exfoliants and cleansers being discharged to water.

Further, insofar as the Notice focuses on microbeads in exfoliants and cleansers being discharged to water, the Notice should be limited to the particle size in those products. Many of our combined members produce "pre-production" plastic pellets used to create a wide range of articles from food containers to car parts, and they are produced in the proposed size range of up to 5 mm. The proposed Order lists plastic pellets much larger than microbeads in personal care products, and once again, the language of the notices provides no rationale for extending

the Notice to include those larger pre-production pellets. As such, we suggest the size range be tailored to that actually used as microbeads from personal care products for the purpose of exfoliating or cleansing.

Lack of Consultation with Stakeholders outside the Personal Care Product Sector

We are also concerned with the lack of consultation around the Notice beyond the personal care product sector. If Environment Canada intends to limit the scope of the proposed toxic listing and regulation to just personal care products, then the consultation that took place up to August 1, 2015 may have been adequate. However, with the definition as broad as it is currently stated in the Notice and the proposed Order, it is imperative that Environment Canada consult with a much broader range of sectors and stakeholders that would be impacted.

Additionally, it should be noted that CPIA explicitly requested in our March 2015 letter to Environment Canada that we be included in future consultations around microbeads and yet we were not included in the consultations that did occur and we did not receive any notification of this proposed regulatory action until the day prior to the August 1, 2015 announcement.

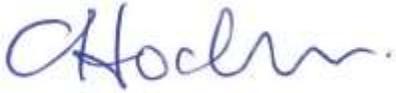
Lack of Rigour around the Science Summary

Lastly, we are concerned about the lack of scientific rigour and formal consultation around the Science Summary that was presented as part of the August 1, 2015 announcement. We understand that under CEPA there are alternative forms of analysis allowed; however, we have concerns with the approach taken for the following reasons:

- The lack of a formal risk assessment has the potential to reduce the overall credibility of the CMP and its processes. Industry supports the CMP because of its transparent processes and the strong science. Additionally, the established CMP process has been an opportunity for the Canadian government to demonstrate leadership on an international level. CPIA and ACC are worried about the precedent set by using only a Science Summary in place of a formal risk assessment.
- We question the process of including a review of all microbeads and microplastics in the Science Summary, when the intent is to regulate microbeads from personal care products for the purpose of exfoliating or cleansing, rather than all microplastics.
- We are also concerned about the lack of any sort of consultation around the Science Summary that was presented on August 1, 2015. In order to provide feedback and contribute to the discussion, CPIA and ACC are having a third-party review of the Science Summary done by a leading global science consulting firm. We intend to provide comments related to the technical aspects of the Science Summary associated with the proposed Order.
- In terms of timelines for consultation, we are also very worried about the exceptionally tight timelines scheduled by Environment Canada. In order to meet the September 30, 2015 deadline of comment for the proposed Order, we have had to limit the timeframe and scope of review done by this external firm. As such, we are requesting an additional 30 days to provide a summary of the independent review of the Science Summary. We firmly believe that this additional time for consultation will result in a contribution that will improve the quality of the Science Summary or associated output.

We appreciate the opportunity to provide these comments and look forward to constructive dialogue around future changes to the language presented in the Notice, as well as the opportunity to provide further comments related to the technical aspects of the Science Summary and the language of the proposed Order to add a substance to Schedule 1.

Sincerely,



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President and CEO
Canadian Plastics Industry Association



Steve Russell
Vice President, Plastics Division
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Cc via email:

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