



environmental
defence



ACTION CANCER DU SEIN DU QUÉBEC
BREAST CANCER ACTION QUEBEC

Nicole Folliet
Acting Director General
Industrial Sectors and Chemicals Directorate
Environment and Climate Change Canada
351 Saint-Joseph Boulevard
Gatineau, Quebec
K1A 0H3

January 12, 2023

By email: Substances@ec.gc.ca

Re: Notice of intent on the labelling of toxic substances in products, including toxic flame retardants

The health and environmental impact of chemicals in consumer products has been a significant public issue for many years. The federal Government had promised to move forward by spring 2022 with a mandatory labelling requirement when potentially harmful substances are found in everyday products. Implementing this will require a regulatory approach based on established precedents in comparable jurisdictions and target dates that allow for the due diligence associated with similar regulatory measures.

This Notice of Intent to label Schedule 1 substances in cosmetics, cleaning products and upholstered furniture is woefully inadequate for addressing the government's espoused vision of human health and environmental protection, greener chemistry, and circularity. Canada must actively create the conditions for these market transformations and at a minimum must establish stronger disclosure requirements for health and environmental hazards in products. Disclosure of hazards in products drives reformulation, and this proposed labelling tool would fall far short of driving this transformation forward.

Limiting the labelling mandate to CEPA-toxic substances does not do enough to protect Canadians and the environment, given that many Schedule 1 substances are no longer widely used in the product classes ECCC proposes to target with the new regulation. Regrettable substitution of CEPA-toxic substances continues to occur within their class of highly-hazardous chemicals (eg. flame retardants, bisphenols.) Schedule 1 covers a small group of substances, and there remains hundreds of thousands more in commerce yet to be assessed under the CMP.

Classes of highly-hazardous substances must be prioritized for disclosure, whether or not the substance is listed on Schedule 1 of CEPA. Enabling tools under CEPA such as the proposed Watchlist - and its list of known, hazardous substances that lacked exposure data at assessment - addresses current and future exposures and environmental health hazards.

Consumers, governments and retailers are not provided with hazardous ingredient information for most products in Canada. Under the Global Biodiversity Framework's Target 15, companies are committing to "provide information needed to consumers to promote sustainable consumption patterns" - the proposed disclosure regime is far from enabling this type of decision-making in Canada.

In general, this proposed labelling initiative fails to meet this government's mandate on labelling of harmful ingredients in products and the labelling commitment made in its election platform.

Over the past 15 years, the issue of mandatory labelling of consumer products has repeatedly been raised as a public issue and a top regulatory reform priority among environmental and health organizations. The issue emerged in the 2007 CEPA review at ENVI and has repeatedly been raised and consulted on at the Stakeholder Advisory Council and other meetings between environmental and health organizations and officials. Environmental Defence and BCAQ, along with our environmental health colleagues and relevant industry associations, have participated in countless discussions on this issue, and our 2017 research report¹ on product hazard labelling in Canada provided specific recommendations on this issue that have yet to be addressed.

In April 2021, the Government announced that it would implement mandatory labelling by regulation for three product categories on an expedited time frame. Consultations were to begin in fall 2021, with a regulation in spring 2022. This timeframe was clearly articulated by Minister Wilkinson, and the Platform later made it clear that an election would not stand in the way of a spring 2022 deadline:

"By spring 2022, move forward with mandatory labelling of chemicals in consumer products, including cosmetics, cleaning products, and flame retardants in upholstery, that may have impacts on our health or environment."

The process is tracking at least a year behind the timeline announced in the government's platform, and we are concerned about further delays.

¹ Full Disclosure: the case for stronger product labelling. Environmental Defence.
<https://environmentaldefence.ca/report/full-disclosure/>

The government's own survey research² on this issue reinforces the overwhelming public demand to go beyond a narrowly-scoped labelling initiative and provide people with the information they need to make informed decisions for their health and the environment:

- People in Canada are “concerned about the potential environmental impacts (93%) and the potential health impacts (94%) of the products they buy and use”
- Ingredient information is important (68%), and it influences their product purchases (76%)
- 79% want “information on the chronic health effects of products on product labels”, 75% want mandatory labelling of these health hazards

This research shows a significant trend towards increased consumer information needs given that the previous 2017 government survey found that 48% of people look to product labels for information on health risks.

Canada's claim to leadership on global chemicals management leadership is being undermined by lack of initiative and vision on mandatory product labelling, as many of Canada's trading partners have moved forward with comprehensive transparency and disclosure reforms. This initiative fails to acknowledge the most recent UN guidance on disclosure in products³, which compels manufacturers and retailers to provide “accessible chemical-related sustainability information needs to be facilitated for consumers to make informed purchasing choices.”

Manufacturers and brands currently comply with labelling legislation in other jurisdictions, in particular in the European Union under REACH, US [federal](#) and states' regulations (eg. New York, California under [SB 1019](#) and [Cleaning Product Right to Know Act](#), Maryland).

Examples of this mandatory product labelling in other jurisdictions include:

EU REACH :	Cosmetics must list ingredients EU has adopted the glossary of common ingredient names. Presence of substances shall be indicated in the list in addition to the terms “parfum” or “aroma” Where impracticable for display on the packaging, it may be included in an enclosure or attached to the product
----------------------------	--

² Canadians' Habits and Preferences in Relation to Labelling of Products for Information on Chemicals and Sustainability, Environment and Climate Change Canada, 2022. Accessed online: https://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-ef/environment_climate_change/2022/067-21-e/summary/index.html

³<https://www.oneplanetnetwork.org/knowledge-centre/resources/guidelines-providing-product-sustainability-information-1>

US FDCA / Modernization of Cosmetics Regulations Act of 2022	Requiring companies, to disclose their use of specific fragrance and flavour ingredients to the FDA Requiring the public disclosure of the ingredients in professional salon products as well as the disclosure of fragrance allergens;
California <u>SB 258</u> :	Products must include a list of each intentionally added ingredient from a designated list, and each fragrance allergen, above 100 ppm · Products must also include a list of all intentionally added ingredients, unless it is CBI A statement, “Contains fragrance allergen(s),” shall be included on the product label If label does not list all ingredients, it shall include a statement directing consumers to a website providing the information and a toll-free number Industry publicly supported this model, including the Consumer Specialty Products Assn. (whose membership includes parent companies of CCSPA members) and <u>SC Johnson</u> . In fact, a New York State <u>Guidance</u> requiring full disclosure of cleaning product ingredients is now being reworked with <u>calls from key industry groups</u> for a harmonized approach with the California law.
California <u>SB 1019</u>	Product shall include label stating “The upholstery materials in this product: ____ contain added flame retardant chemicals ____ contain NO added flame retardant chemicals” California has determined that fire safety requirements can be met without adding flame retardants, and identified many flame retardants as being known to, or strongly suspected of, adversely impacting human health or development

In order to avoid falling further behind the leading jurisdictions (EU, US) in the global chemicals management community, Canada must:

1. **List ingredients and contaminants:** list all intentionally added chemical ingredients down to a specific concentration limit. For cleaning and personal care products, fragrance and unintentional ingredients (including byproducts and contaminants) must also be listed. For upholstered furniture, a label should be placed in a visible (or easily accessible) manner and disclose whether the product contains added flame retardants.
2. **Health Warnings:** Certain ingredients that pose specific health risks such as allergens should be listed on the product with a warning as to their potential risks.
3. **Access to information:** Online listing and disclosure could be used to complement on-product labelling and to provide more details, especially when the space on the package is limited.
4. **Limits on Confidential Business Information (CBI):** withholding disclosure of certain ingredients by claiming CBI, as long as these chemicals do not meet predetermined criteria in terms of potential to pose a risk to human health or the environment (e.g. allergens, reprotox substances)

We urge you to reconsider this proposed approach to consumer product labelling and develop a meaningful initiative that meets or exceeds the previously stated commitment on this issue.

Cassie Barker
Senior Program Manager, Toxics
Environmental Defence

Jennifer Beeman
Executive Director
Breast Cancer Action Quebec