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October 7, 2022

Tracey Spack
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Environment and Climate Change Canada
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Submitted by email to: plastiques-plastics@ec.gc.ca

Dear Ms. Spack:

RE: Consultation papers: "[Towards Canada-wide rules to strengthen recycling and composting of plastics through accurate labelling](#)" and "[A proposed federal plastics registry for producers of plastic products](#)"

Thank you for the opportunity to comment on the above-noted consultation papers. In the spirit of supporting the goal of achieving Zero Plastic Waste by 2030, the undersigned environmental organizations offer the following responses to select questions posed in the consultations.

The Government has the opportunity with these two regulations to decrease plastic waste and pollution, support upcoming recycled content requirements and put an end to misleading and greenwashing claims related to recyclability, compostability and – we suggest – flushability of products and packaging. The labelling rules should apply to all products and packaging, including business-to-business packaging.

Critical to meeting the objectives of protecting the environment and human health, and improving recycling, the Government must do more to track and eliminate harmful substances and toxic additives to plastics.

The plastic pollution crisis has a disproportionate impact on certain populations, including Indigenous peoples, as well as Black people, people of colour and low-income and working class communities, who tend to live closest to polluting manufacturing and waste facilities. New regulations should serve to reduce the risk to these populations and communities and support environmental justice and the right to a healthy environment. For these reasons, we urge the Government to exclude processes known as chemical recycling or advanced recycling, as well as incineration of plastic, as forms of plastic recycling or waste diversion. These false solutions are energy-intensive and polluting to air, water and soil, putting communities that live nearby in harm's way while requiring a steady stream of plastic waste, thereby undermining efforts to reduce plastic at source.¹

Labelling

Responses to selected questions on recyclability labelling

1. Are there any other objectives the Government should be seeking to achieve as it develops labelling rules for recyclability?

Recyclability labelling should serve to reduce the use of non-recyclable plastic resin in the Canadian market. Through disincentivizing non-recycled resins, and mixed material products (paper and plastic), the Government can support the establishment of reliable Canadian sources of post-consumer resins that can be incorporated into plastic products and packaging as recycled content.

In addition, effective recyclability labelling should seek to reduce – and eventually eliminate – the use and circulation of hazardous additives in plastic products that hinder recycling and have human health impacts in their manufacture, use and recycling.

2. Is there more granular data the Government should be aware of regarding outcomes of specific kinds of plastic items or packaging in the recycling stream?

The Government needs to know whether plastic materials collected are turned into recycled plastic flakes and pellets, ready for incorporation into new plastic products. There should be a mechanism to ensure that material sent for processing is actually turned into recycle. We suggest that for a process to be considered recycling, at least 80 per cent of the material sent for processing should be available as recycle for new products.

¹ Rollinson, A., Oladejo, J. (2020). Chemical Recycling: Status, Sustainability, and Environmental Impacts. Global Alliance for Incinerator Alternatives. doi:10.46556/ONLS4535; available at https://www.no-burn.org/wp-content/uploads/2021/11/CR-Technical-Assessment_June-2020_for-printing-1.pdf

Due to the presence of toxic additives in plastic products and waste, not all recycled plastic can be used to produce things like food packaging or toys since the chemicals in the recyclate can contaminate the new products. Hazardous chemicals like bisphenols, brominated flame retardants, phthalates, and persistent organic pollutants are found in plastic pellets around the world.² We urge the government to ensure that only toxic-free recyclates are available for new products that come in direct contact with people to avoid exposure to toxic chemicals leaching from such products. A label stating a product or packaging is recyclable only belongs on materials that do not contain toxic additives.

5. What is the process and timeline for designing and implementing changes to labelling (for example, lifespan, costs, marketing considerations, and implementation timelines)?

In order to achieve the stated objectives, and to minimize the harm to the environment caused by manufactured plastic items, the timeline for labelling changes should be significantly accelerated.

The government should develop a standardized labelling system applicable to all domestically manufactured and imported products by the end of 2024. To allow for a phase-in period, all new plastic products on the Canadian market should be required to adhere to this system by the end of 2026.

6. Is there any other data the Government should be aware of regarding the accuracy of recyclability labelling on plastic packaging or other product categories?

The Competition Bureau recently settled a case on greenwashing related to the recyclability of coffee pods³ and has issued a warning to companies about the illegality of making unsubstantiated environmental claims on packaging.⁴ It is useful to remember that misleading labelling can be used intentionally to sell a product and that labelling rules need to put a stop to this practice. Confusion around labelling, whether intentionally misleading, or simply obscure and confusing for consumers, has a significant impact on public trust and confidence in recycling and environmental policy.

7. Are there any other factors that can impact a plastic item's recyclability, beyond the factors listed above?

New recyclability labelling regulations should consider a practical lens when approaching the criteria and evaluation of a plastic's recyclability to ensure the success of the objectives of this regulation: the increase in trust and transparency

² IPEN, "How plastics poison the circular economy," 2022. Available at https://ipen.org/sites/default/files/documents/ipen-plastic-poison-circ-econ-v1_4w-en.pdf

³ See <https://www.canada.ca/en/competition-bureau/news/2022/01/keurig-canada-to-pay-3-million-penalty-to-settle-competition-bureaus-concerns-over-coffee-pod-recycling-claims.html>

⁴ See <https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04607.html>

of the recycling system and the increase in recovery of economically valuable plastics.

A plastic product's recyclability should be evaluated based on the product as a whole, inclusive of all attached components, as sold to and used by the consumer. As an example, the average carbonated beverage container is comprised of a plastic bottle, a plastic label, adhesives, and a plastic cap and fastener. Many of these components are made from different resins or materials, with various outcomes once in the waste stream. Consumers dispose of the product as a whole without disassembly, even when additional labelling advises to remove components. By giving a plastic product as a whole a single recyclability label, inclusive of all additives and components as sold and used by consumers, the Government introduces an incentive to improve design for recycling.

The Government should remove consumer preparation of plastic products as a criterion in the evaluation of recyclability labelling. It is unreasonable to expect consumers to pretreat products before putting them out for recycling, including disassembly of products or packaging that don't come apart during normal use. The goal of the labelling should be to incentivize the elimination of non-recycled components, including those containing toxic additives, on what are otherwise recyclable products. At a practical level, the Government should assume consumers will not pre-process products and packaging, including disassembly, before discarding them. Therefore, products need to be designed effectively to enter the recycling stream as they are sold and ensure that recycling will not lead to the contamination of the recycle with toxic chemicals.

8. What kinds of information would make it easier for individuals to prepare and sort plastics for recycling adequately?

We recommend that plastic packages and products be required to include either of two simple labels that tells the user where to discard the item at end of life: "Recycling" (with chasing arrows if desired) and "Waste." To be clear, we do not believe any plastic should be labelled compostable at this time.

Only packages and products that are collected without pretreatment and recycled safely should be permitted to bear a label of recyclable.

Canadian consumers have been subjected to strategic marketing by plastic producers and manufactures for decades that co-opts sustainability language and features buzzwords like "green," "bio," "recyclable," "degradable," "biodegradable," "flushable," "plant-based," "natural," and "organic." This unregulated language has led to confusion among consumers as various waste disposal streams emerged over the years, buying habits changed, and interest in sustainability increased. We believe it should not be allowed on plastic products and packaging.

The Government should be clear on recyclability labelling and standardize language in a simple manner to counter years of greenwashed marketing that has

contributed to Canada's 8 per cent recycling plastics recycling rate.⁵ Plastic products should only bear labels that match the disposal bins commonly offered in homes and public settings, without qualifying statements like "where facilities exist" or "check locally" based on their recyclability labelling evaluation. The regulation should bar the use of recycling symbols, such as the chasing arrows and any resin code sitting within a triangle, in company logos and branding on products that do not meet recyclability criteria.

10. What kind of design features on plastic items or information on labels would be most effective in helping strengthen public trust in recycling systems?

As noted above, labels must be as simple – and yet comprehensive – as possible. For that reason, we recommend a requirement for labelling of plastic products and packaging that tells consumers what to do with the material at end of life: place it in a recycling bin or a waste/garbage bin.

13. Does the regional market breakdown reflect the current situation in Canada? Are there alternative ways to establish 80% population thresholds?

Plastic products labeled as recyclable should be collected for recycling at curbside from 80 per cent of Canadian households or covered by a deposit-return system in each proposed region. Further, recyclability must be based on whether the plastic product is truly recycled. The definition of recycling in this evaluation should include:

- i. Displacement of raw materials in new products,
- ii. An energy efficient or least carbon emitting method of processing,
- iii. Recovery of at least 80 per cent of the input waste material as plastic recycle,
- iv. Avoidance of release of toxic emissions or pollutants to soil, air, and water; and
- v. Absence of additives that prevent safe conversion of plastic material (eg. PFAS, lead, phthalates, bisphenols, dyes, brominated flame retardants)

The regional breakdown proposed is acceptable and accurately captures urban, rural, remote, and northern communities in Canada. However, the ultimate goal should be collection in 100 per cent of Canadian households as part of the plan to eliminate plastic waste by 2030.

14. Do companies currently identify what is collected for recycling when developing recyclability labels? If so, how?

⁵ See <https://www150.statcan.gc.ca/n1/daily-quotidien/220323/dq220323f-eng.htm>

Plastic manufacturers and producers do not, by and large, identify what is collected for recycling when developing recyclability labels as evidenced by qualifying statements such as “where facilities exist” or “check locally” and by Canada’s overall low recycling rate of 8 per cent.

15. How could labelling rules provide accurate information to residents of rural, remote or Northern communities where recycling programs may operate on different models (for example, drop-off depots) or may not be present at all?

Companies should be required to collect and process materials from all communities in which they sell products to reflect a true producer responsibility framework. Producers, communities, provinces and the federal government must work to eliminate plastic waste in these communities through improved collection and elimination of non-essential single-use plastics.

17. What kinds of information should be sought as part of the initial survey and assessment of what is accepted for recycling across Canada?

The Government should consult with community recycling centres (CRCs), producer responsibility organizations (PROs), and MRFs and mechanical recyclers to ground truth what plastic materials are being accepted and actually recycled, while also identifying the obstacles they face such as contamination and lack of infrastructure or capacity. As part of this consultation, the Government should investigate what happens to exported plastic bales and scrap, including what happens to material from Canada that is discarded from US-based sorters and processors.

The use of additives and a growing range of hazardous substances in plastic packaging and products is a significant obstacle to effective recyclability labelling, recycling and recycled content. However, there is no transparency or requirement for manufacturers to provide this information to consumers or recyclers. Therefore, it is also critical that the federal government gather information on the additives and hazardous substances used or added to plastic manufactured products by producers, information on the impact of those additives to human and environmental health, and the impact of those additives to safe and effective recycling collection, processing and production of new products.

18. Are there any other factors the Government should consider in developing an approach to determine whether a North American end market for a particular plastic item is reliable?

We urge the government to refine the criterion related to “reliable end markets,” to focus on the processed material (eg. rPET or rHDPE) and not the scrap that is found earlier in the process (eg. bales). The key question is not whether plastic scrap can be sold on a market, but rather whether discarded plastic is, in fact, turned into recyclate and used in the manufacture of new products. Plastic scrap is sold, including for export, for purposes other than recycling into new products (and is

instead sent for burning in cement kilns, landfill and other non-environmentally-sound disposal) and mixed bales are sold even if some or most of the material in the mixed bale cannot be effectively sorted and processed into new plastic products. We therefore believe the market value of the bale is not relevant to determining whether a material is properly recyclable. We submit that the only useful measure is whether the recyclate is used at the post-processing stage for the production of new products.

Plastic products have limited recyclability, even with the best processes, with decreasing quality over time. In determining recyclability and labelling, the Government should consider the fact that plastics are harmful and should ultimately be phased out for single-use packaging and products, and explore how to incorporate and convey 'reusability' for products.

19. Are there any particular categories of plastics that likely do not have North American end markets? Why?

Clear and white HDPE and PET bottles are the most likely plastics to be recycled with reliable end markets for the processed polymers. All other types of plastic scrap do not appear to have reliable demand to match the volume of materials that are discarded, even if recycling is theoretically possible and sometimes performed at small scale. Proper labelling could boost the recovery rate of the valuable resin scrap while disincentivizing the use of the materials that cannot effectively be recycled.

Responses to selected questions on compostability labelling

21. Is there any data on end-of-life outcomes for compostable plastics and other types of biodegradable or degradable plastics, the Government should be aware of as it develops labelling rules?

No plastic should be labelled compostable unless it is collected and accepted for composting according to the criteria being proposed for recyclability: ie. 80% of the population must have access to a compost collection system for plastics in each of the five regions that processes the material into soil conditioner. This is currently not the case. In fact, we know of few municipal composting programs that accept so-called compostable plastics, even plastics that conform to one of the two standards proposed in the discussion paper. That means that the vast majority of so-called compostable plastic packaging will end up in the waste stream, and undercut efforts to divert food waste and organics from landfill or incineration.

Moreover, so-called compostable plastics, whether certified or not, should be clearly labelled as waste to prevent contamination of plastic recycling streams.

22. Are there any other objectives the Government should be seeking to achieve through compostability labelling rules? If so, what are they and why are they important?

Composting is a regenerative process to recycle valuable organic nutrients into the soil, and should not be viewed as a form of disposal for low-value, single-use and unnecessary products.

From an environmental perspective, we also believe the federal government should not be encouraging the use of “compostable” plastics, which require specialized composting facilities and still leave micro- and nano-plastic particles and potentially other toxic contaminants behind that contaminate soil and add the plastic pollution in soil, aquatic environments, the air and even build up in the food web.⁶

24. Which of the above approaches for the kinds of recyclability claims that should be subject to labelling rules (1, 2, 3) should the Government adopt, and why? Is there another approach the Government should adopt instead?

Approach 3 should be adopted by the Government as it is the most comprehensive approach to labelling proposed in the consultation. We further urge the Government to expand the approach to capture all strategic market terms and symbols that currently add to consumer confusion about where to discard products and packaging at end of life. That is why we’re proposing a system whereby producers must label their products and packaging according to what should be done with them at end of life: place them in the garbage or recycling.

25. If an obligatory system is adopted, what should the Government consider in order to minimize burden on industry while maximizing environmental outcomes (for example, appropriate timelines, cumulative impacts of different labelling requirements)?

The Government must adopt an obligatory system and should not consider burdens on the plastic industry. Plastic manufacturers and producers have gone unchecked for decades. They have been provided the data and opportunity to create products that do not end up in landfill or the environment. They have failed to create plastic products that can be recycled on a broad scale and have failed to keep plastics out of the environment.

26. Are there any other kinds of plastic items that may warrant special rules or exemptions from labelling rules under an obligatory system? Why?

No plastic items should be excluded or exempted from the labelling rules. No matter what the item is, the user will need to know what to do with it at end of life.

We strongly reject the suggestion of exempting certified compostable products from obligatory recyclability labelling. So-called compostable products and packaging, even those certified by a third party, must be labelled with clear information that

⁶ See <https://www.foodnavigator.com/Article/2022/09/13/from-lettuce-to-insects-to-fish-research-investigates-how-nanoplastics-can-move-up-the-food-chain#:~:text=%E2%80%9COur%20results%20show%20that%20lettuce,and%20accumulated%20in%20the%20leaves.>

they are not recyclable. Products that act, feel and look like plastic cause confusion among consumers and will lead to contamination of plastic recycling without clear and specific labels that direct consumers not to dispose of it in recycling bins.

27. What should be the minimum standards to ensure consumers can easily access and use information on a label (e.g., size, font, location on the package, text size, required symbols)? Why?

Labelling should meet all accessibility requirements within the Government of Canada to ensure proper comprehension of provided information. Labelling should be tested and evaluated in each region to ensure comprehension and accessibility by the average Canadian. Additionally, a comprehensive communications and promotional campaign about the labelling, with detailed information available about its meaning should be funded by plastic manufacturers as part of the move to extended producer responsibility (EPR). As noted above, we propose a simplified system that requires producers to label their products and packaging according to what should be done with it at end of life: placed in recycling or garbage.

28. Are there any other considerations besides components and regions that may require qualified recyclability information?

We strongly urge the government to avoid qualified recyclability information. If a portion of the plastic packaging is not detachable as part of the regular use and is not recyclable, the full package should be labelled as going into the garbage bin. If a certain type of material is recyclable in one area of the country but does not meet the population criteria, separate communications – through a PRO or municipality or retailer – should be provided to ensure appropriate discarding of the material in that area. A national labelling system must be simple and not deal with exceptions.

30. Should there be any criteria for determining whether a third-party certification is adequate to ensure compostability in Canadian composting facilities? If so, what should be the criteria and why?

As noted above, compostability should be based on real-world outcomes, not on whether a material is theoretically compostable under highly specific conditions. For that reason, we don't believe certification is relevant to the labelling rules. As with what is being proposed for recyclability, the criteria should be based on whether the material is collected and processed as compost through systems that are accessible to a majority of Canadians.

32. Are there any other principles or other important considerations the Government should take into account in developing rules for compliance and compliance verification?

There must be clear public transparency for the labelling system, an understandable mechanism for public inquiries and challenges, and a penalty and cost for manufacturers associated with breaking the rules to serve as a deterrent.

36. If a technical committee of experts is established, what should be its composition and what should be its role in the development of tools and guidance?

A technical committee of experts should be comprised of PROs, CRCs, MRFs, environmental non-for profits that specialize in plastic pollution, public / plastic / toxicology health experts, consumer groups, accessibility organizations and supply chain experts from across Canada. The committee should focus on ground truthing and providing practical advice to the Government in developing recyclability labelling criteria to establish reliable domestic and foreign end-markets of plastic products.

38. Are there any other performance metrics the Government should consider in tracking progress and evaluating success?

The development of a comprehensive national plastics registry is critical to collecting the year-over-year data needed to evaluate success of the labelling regulations.

A final comment on labelling: “flushable”

We urge the government to open a further consultation on labelling of products containing plastic as flushable. “Flushable” is yet another term that marketers use to make consumers think that single-use plastic products are eco-friendly and safe for the environment. Products such as wipes and cloths containing polymers are marketed as flushable when they do not disperse in municipal wastewater treatment facilities, causing clogs in drains and damaging infrastructure.⁷ Further, because the polymers survive treatments intended to process wastewater, not plastic, they are likely a source of micro- and nanoplastic pollution in freshwater and marine environments.⁸

Plastics Registry

Selected responses to questions regarding the plastics registry

1. What objectives and potential benefits do you see from a federal plastics registry, and are they contingent on any conditions being met (for example agreements with provinces and territories)?

The purpose of the plastics registry is to support policy at all levels of government and industry decision-making aimed at eliminating plastic waste, including monitoring changes in plastic production, use, disposal and export and evaluating

⁷ Orr, B., Karadagli, F., (2018), “Effects Of Flushable Products On Wastewater Infrastructure And Natural Aquatic Environments,” Report to Fisheries and Oceans Canada.

⁸ See: <https://www.sciencedirect.com/science/article/pii/S2666445321000039>

targeted waste reduction programs such as refill and reuse. It should provide accurate data on what plastic is being discarded and recycled.

We believe that the registry as proposed is too narrowly scoped to existing Extended Producer Responsibility (EPR) programs, which exclude the vast majority of “plastic manufactured items” (PMIs) in Canada today. EPR programs differ dramatically across the country, with variation in PMIs covered, markets and level of reporting. The CEPA listing covers PMIs, which can pollute at any point along the supply chain, from resin and additives, to industrial components, to clothing, scrap and recycle. The universe of PMIs goes far beyond post-consumer plastic packaging discarded from households, which is the most likely to be covered by an EPR program today. The registry should cover all plastics on the market, regardless of the sector in which they are used. The scope of companies and entities reporting must be broadened to include:

- Resin producers and importers
- Waste processors
- MRFs
- Waste haulers
- Brokers
- Landfill operators
- Waste facilities inclusive of chemical recycling, advanced recycling and incineration facilities like energy-from-waste
- Manufacturers
- Retailers

2. Are the product categories described in this document characterized accurately? For example, should any sub-categories be separated out and included as product categories in their own right, or should any categories be combined?

By modelling the registry after EPR systems, critical data in evaluating the success of Zero Waste initiatives is lost and the goal of increasing transparency and trust in the waste management system is not achieved. A two-tiered level of data reporting should be applied to the registry.

Importers, producers, manufacturers, and retailers of plastics should be required to provide detailed annual data on the pre-consumer/pre-use phase of plastics:

- Common Product name (e.g. cup, bottle, lid, electronic device, overwrap, etc.)
- Resin type
- Percentage of recycled material in resin used to manufacture the product
- Units of product produced and/or weight

- Category of plastic in accordance with waste categorization (e.g. packaging, automotive, agricultural, electronic, construction, etc.)
- Presence of multiple plastic resins
- Presence of mixed materials (e.g. paper, metal, glass)
- Manufacturing facility
- Country of origin
- Province of sale
- Presence of additives (e.g. PFAS, bisphenolA, flame retardants, etc.)
- Single-use plastic (by weight or unit) displaced through the refill/reuse of the package or product that is subject of the report. Optionally, producers could report here on displacement of single-use plastics by products/packaging made of non-plastic materials.

Landfills, waste facilities, recyclers, haulers, brokers and exporters should be required to provide annual data on the material they process in the post-use phase of plastics, including, as appropriate:

- Category of plastic in accordance with waste categorization (e.g. packaging, automotive, agricultural, electronic, construction, etc.)
- Presence of multiple plastic resins
- Presence of mixed materials (e.g. plastic attached to paper, metal, glass)
- Province/territory of collection
- Units of product or weight (by type) collected/hailed
- Amount (by weight) and type:
 - entering the sorting/processing facility
 - sold for further processing or manufacture (including chemicals produced from depolymerized plastics)
 - Amount disposed (on- or offsite)
- Amount (by weight) and type incinerated for energy recovery
- Amount (by weight) and type Incinerated without energy recovery
- Amount (by weight) and type burned as fuel
- Amount (by weight) and type landfilled
- Amount (by weight) and type exported
- Country of destination for exports
- Whether the Prior Informed Consent procedure under the Basel Convention was applied to the exported material.

The data collected should be made available to the public in an accessible manner.

16. How quickly after Phase 1 data is required to be reported could producers provide the information outlined above for Phases 2-4?

The timeline for implementation of the national plastics registry is too long. The government should shorten the proposed timeline and ensure the data is standardized across all entities and reporting regions and the reporting system must be open-access and barrier free.

The data reporting system must be in place by 2024; all companies that import, produce, or sell plastics in Canada should report what they are importing, producing, selling by 2024 at the latest. By 2025, any company who reports on any provincial EPR should be required to report on the end of life of their products. This reporting should be aligned with what the companies are already reporting to the provincial systems but augmented as necessary. By 2026, the registry should have full reporting from all companies that handle plastic that has been discarded. Entities with the information or reporting capacity, should contribute to the registry in advance of target dates. All data from private entities must be third-party audited for validity at the cost of the reporting entity.

Thank you, once again, for the opportunity to comment on these important consultations.

Yours sincerely,

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