

Canada, Come Clean: Product Labelling and our Weak Toxics Laws

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Introduction

The federal Liberals' last election platform promised to require labelling of consumer products containing hazardous ingredients. Yet, delays and weak regulatory proposals to date contradict their stated ambition.

The health and environmental impact of chemicals in consumer products has been a burning public issue for many years, and other jurisdictions have introduced new, binding product labelling requirements. The Liberal platform promised to introduce mandatory labelling requirements by Spring 2022. Once re-elected, however, the government decided to delay the promised rules.

1.0 Labelling: from mandatory mandate to minimal action

Recently, the federal government announced an inadequate half-measure. They plan to only require labelling for a small number of the most highly-regulated chemicals under the Canadian Environmental Protection Act (CEPA). However, by the time substances are listed as toxic under CEPA, most are no longer widely used in the products that the government proposes to target with the new regulation.

In addition, the substitution of CEPA-banned chemicals by those that are similar in terms of impacts continues - and these will remain unlabelled. This has been the case with toxic flame-retardants in furniture and bisphenols in plastics. Limiting the labelling mandate to the rarified list of 'CEPA-toxic' substances does not do enough to protect our health or the environment.

To be effective, labelling requirements must be enacted for entire classes of highly hazardous substances, whether or not the substance is listed as toxic under CEPA. This approach has been implemented in Europe and some U.S. states. Bill S-5, which amends CEPA, proposes a new "Watchlist" of known hazardous substances that could serve as an ideal reference to guide such a labelling requirement.

2.0 We want to know: government research on labelling

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 parliamentary review and has repeatedly been consulted on at the federal government's CEPA Stakeholder Advisory Council and other meetings between environmental and health organizations and government officials.

Our 2017 research report¹ on product labelling in Canada provided specific research and recommendations on this issue that have yet to be addressed, including that product labelling and disclosure influences consumer² and manufacturer³ behaviour. People still assume that products on the shelf have been tested and have been deemed safe by the government⁴, and the disproportionate health impacts experienced by Black, Indigenous and other racialized communities from product-based exposures⁵ remain unaddressed. People are entitled to increased transparency and mandatory disclosure of ingredients that have the potential to harm their health.

The government's own survey research⁶ on this issue reinforces the overwhelming public demand to 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 per cent) and the potential health impacts (94 per cent) of the products they buy and use"
- Ingredient information is important (68%), and it influences their product purchases (76 per cent)
- 79 per cent want "information on the chronic health effects of products on product labels"
- 75 per cent want mandatory labelling of these health hazards

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

² Hobin, E., Weerasinghe, A., Vallance, K., Hammond, D., McGavock, J., Greenfield, T., Schoueri-Mychasiw, N., Paradis, C., Stockwell, T. (2017) Testing Alcohol Labels as a Tool to Communicate Cancer Risk to Drinkers: A Real-World Quasi-Experimental Study. *Journal of Studies on Alcohol and Drugs* 2020 81:2 , 249-261 <https://doi.org/10.15288/jsad.2020.81.249>

³ Stapleton & Cooper (2016). Flame Retardant Applications in Residential Furniture: Results from the Duke Superfund Foam Screening Project. (Webinar Slides)

⁴ Office of the Auditor General of Canada (2016). Chemicals in Consumer Products and Cosmetics.
http://www.oag-bvg.gc.ca/internet/English/parl_cesd_201605_03_e_41382.html

⁵ Chang, C, O'Brien, K, Keil, A, Gaston, S, Jackson, C, Sandler, D, White, A, (2022) Use of Straighteners and Other Hair Products and Incident Uterine Cancer, *JNCI: Journal of the National Cancer Institute*, Vol 114:12, pp 1636–1645, <https://doi.org/10.1093/jnci/djac165>

⁶ 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/s-ummary/index.html

This research shows a significant trend towards increased consumer demands for information. The previous 2017 government survey found that 48 per cent of people look to product labels for information on health risks. 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 does not enable this type of decision-making in Canada.

3.1 We're falling behind jurisdictions leading on labelling

This government's lack of initiative and vision on mandatory product labelling undermines Canada's claim to leadership in global chemicals management. Our weak labelling initiative falls short of the most recent UN guidance on disclosure in products, which compels manufacturers and retailers to provide "accessible chemical-related sustainability information that needs to be facilitated for consumers to make informed purchasing choices."

The current product labelling regulations are 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 the government's process for labelling announced last year falls far short of driving this transformation forward. It also falls short of its commitments.

In April 2021, the Government announced that it would implement mandatory labelling for three product categories in 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 Liberal election 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 at least a year behind the timeline announced in the government's platform, and we are concerned about further delays. And as noted above, it is unlikely that the government's current process will end up regulating a significant number of products and substances in commerce.

3.2 It's important that the government moves as quickly as possible to fulfil the mandatory labelling commitments made in their April 2021 election platform and mandate letters

Canada's claim to leadership on global chemicals management leadership is being undermined by several factors, including its lack of initiative and vision on mandatory product labelling. Many of Canada's trading partners have moved forward with comprehensive transparency and disclosure reforms. This initiative does not match the level of ambition in Europe or several US states, and fails to acknowledge the most recent UN guidance on disclosure in products⁷, which compels manufacturers and retailers to provide "accessible chemical-related sustainability information needs to be facilitated for consumers to make informed purchasing choices."

There is ample legal authority under various acts to implement the labelling requirement. Cosmetics labelling falls under the Food and Drug Act, cleaning products are under the Canadian Consumer Product Safety Act and upholstered furniture labelling under the Textile Labelling Act. CEPA also has regulatory powers available to address product labelling, and it must be strengthened in this regard during the current legislative reform of the act.

The EU continues to improve its strong product safety and disclosure standards. The US is building on strong state legislation by introducing the Safer Beauty Bill package on cosmetics and personal care products, specifically targeting the disparities in product safety for products marketed to racialized communities.

Manufacturers and brands currently comply with labelling legislation in other jurisdictions, particularly in the European Union under REACH, US [federal](#) and state regulations (e.g. 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
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⁷<https://www.oneplanetnetwork.org/knowledge-centre/resources/guidelines-providing-product-sustainability-information-1>

<p>US FDCA / Modernization of Cosmetics Regulations Act of 2022</p>	<p>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;</p>
<p>California <u>SB 258</u>:</p>	<p>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.</p>
<p>California <u>SB 1019</u></p>	<p>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</p>

4.0 Industry Opposition

Vocal opposition to improved transparency and disclosure in product labelling comes from some companies that formulate products – mainly soaps, cosmetics and paints – but in many cases, their U.S. parent companies and industry association are publicly in favour of the precedents that we would be drawing on. For example, support for the California *Cleaning Product Right to Know Act* came from the largest conventional cleaning products manufacturers, such as P&G.

5.0 Recommendations

Government research on this issue reinforces the overwhelming public demand for labelling transparency and disclosure. Nine out of 10 people are concerned about the potential environmental and health impacts of the products they buy and use; seven out of 10 say that ingredient information influences their product purchases and that they want mandatory labelling of potential health hazards on product labels.

To avoid falling further behind the leading jurisdictions in the global chemicals management community, Canada must require the following.

5.1 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 packaging label should be placed in a visible (or easily accessible) manner and disclose whether the product contains added flame retardants.

5.2 Health warnings

Certain ingredients that pose specific health risks, such as allergens, should be listed on the product, with a warning about their potential risks.

5.3 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.

5.4 Limits on Confidential Business Information (CBI)

Companies often refuse to disclose certain ingredients by arguing that revealing this information would compromise their CBI. But the public interest must outweigh these concerns when these chemicals pose a risk to human health or the environment (e.g. allergens, reproductive toxins).

Regrettable substitution of CEPA-toxic substances continues to occur within their class of highly-hazardous chemicals (e.g. flame retardants, bisphenols.). "CEPA-toxic" substances cover a small group of substances. Hundreds of thousands remain in commerce yet to be assessed under the Chemicals Management Plan.

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.

Consumer product labelling requires a meaningful initiative that meets or exceeds the previously stated commitment on this issue. The government should require meaningful consumer product labelling and develop rules that meet or exceed the clear commitments made on this issue.