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May 18, 2023

Tracey Spack, Director
Plastics Regulatory Affairs Division
351 Saint-Joseph Blvd
Gatineau QC K1A 0H3

Email: plastiques-plastics@ec.gc.ca

Dear Ms. Spack:

Re: Comments on Regulatory Framework Paper for Recycled Content and Labelling Rules for Plastics AND the Technical Paper: Federal Plastics Registry

The undersigned organizations, who all advocate for a healthy environment and against plastic pollution, are pleased to submit the following comments on the proposed framework for upcoming recycled content and labelling regulations as well as the technical paper on the proposed federal plastics registry.

Summary of key recommendations

- Remove the exemption for “hybrid” reuse packaging from the regulations
- Remove foam packaging from the rigid category and create a separate category for all types of polystyrene foam.
- Set a target of at least 50 per cent recycled content for all packaging by 2030.
- Adopt the controlled-blending method for measuring recycled content to ensure that recycled content is traceable in products put on the Canadian market.
- Narrow the options to two for recyclability labelling: recyclable or waste
- Add a measure for establishing recyclability that requires more than half of all the product or package put on the market to be actually collected and sorted in Canada before the product can be labelled recyclable.

- Prohibit the labelling of plastic packaging as compostable unless and until it is demonstrated that 80 per cent of people living in each province in Canada have access to free local organics collection services that can process the package in question.
- Prevent packaging containing phthalates, PFAS, bisphenols or brominated flame retardants from being labelled recyclable or compostable.
- Ensure adhesives on produce PLU labels are compostable and free of toxic chemicals.
- Make labelling requirements mandatory by 2026.
- Ensure data from the Registry is publicly available one year after first reporting.
- Add additional and distinct product categories and end-of-life outcomes to the Registry.

Recycled content

1. We can accept the limited **scope** of the regulations, except in one area: **“hybrid” reuse packages that remain with the end user must not be exempted** as there is no way of demonstrating that these plastic packages are, in fact, reused. Exempting these types of products could well incentivize a false reuse product that may or may not be recyclable and thereby undermine the objective of reducing plastic waste and pollution. Further, we fully agree with bioplastics being within the scope of the regulation.
2. The packaging categories proposed are too limited. In particular, **we urge you not to include foam packaging in the rigid category and instead create a separate category for all types of polystyrene foam.** By including foam in rigid packaging, its lighter weight would allow producers to meet the rigid target using rigid plastics, such as HDPE and PET, that are generally recyclable, while also continuing to use environmentally problematic polystyrene foam with no recycled content.
3. It is imperative that all types of plastic packaging – rigid, flexible and polystyrene foam – be required to have the same level of recycled content in order to avoid a shift to even less environmentally-sustainable packaging types. If requirements for flexible packaging are lower, in recognition that this type of packaging is less recycled, we will simply end up with more plastic packaging that is not recycled. **We therefore urge you to set a uniform target of at least 50 per cent recycled content for all packaging types by 2030.**

4. In terms of compliance with the recycled-content requirement, we support the exclusion of fuel as recycled content for plastic and of “book and claim” methods of measuring recycled content. This implies that ISCC certification would not be an acceptable form of certification for recycled content for plastic packaging in Canada. “Chemical recycling” processes that involve pyrolysis, gasification or any other form of incineration, generally produce fuel or energy, not plastic.¹ They are not environmentally sustainable. Environmental Defence’s backgrounder on “chemical recycling” is included as an attachment for further clarification. Further, we believe that the controlled blending method of measuring recycled content is the most reliable. We urge you to do the maximum to **ensure that recycled plastic feedstock that displaces virgin plastic feedstock is traceable and present in regulated plastic packaging put on the Canadian market.**

5. We further recommend adding the following provisions to the draft regulation to ensure it is as strong as possible:
 - a. Provide credit for recycled content to any producer that can demonstrate a package or container has been reused and displaces a SUP package/container. For example, if a company can prove it has taken back and refilled a shampoo bottle, that refilled bottle should be credited as 100% recycled content when it is put back on the market a second time.
 - b. Provide a supporting guideline to accompany the regulation outlining cleaning standards for reusables to remove a key barrier to adoption of reusable systems.
 - c. Prohibit toxic additives in packaging by excluding any packaging from consideration for recycled content if it contains toxic additives including PFAS, phthalates, bisphenols and/or brominated flame retardants.

Labelling

Requirements for accurate product labelling are an essential tool to prevent misleading claims about products or packaging, leading to greenwashing and negative environmental outcomes. Canadians expect clear and honest labels about which plastic products and packaging are recyclable.

¹ See

<https://environmentaldefence.ca/wp-content/uploads/2023/05/Briefing-Note-Reject-chemical-recycling-May-2023.pdf>

1. The proposed labels for recyclability are confusing. **We urge you to narrow the options to two required labels for plastic packaging:** one for packages that meet strict criteria as recyclable (see below), with the chasing arrow symbol with check mark, and one for packages that do not meet the criteria that clearly indicates the package will most likely end up as waste or garbage. In a recent Canada-wide poll, 91 per cent of respondents supported labels that accurately reflect where plastic packaging will end up at end of life.² Producers and provinces without extended producer responsibility (EPR) for packaging can use QR codes and other communication tools to tell consumers what to do with packaging in their jurisdiction. **We support the proposal that packages that do not meet recyclability criteria be prohibited from featuring the chasing arrows symbol.**
2. We support the proposed criteria for meeting the definition of recyclable:
 - a. 80 per cent of the population in each province must have access to collection of the package in question
 - b. 80 per cent of the package material collected must be effectively sorted into bales
 - c. 80 per cent of the bale material that contains the packaging material must be turned into recycled feedstock that can displace virgin resin for the package.
3. **Further, we urge you to add a measure requiring that more than half of all the product or package put on the market in Canada be actually collected and sorted within Canada according to the proposed criteria before the product can be labelled recyclable.** This ensures that there is confidence that a product labelled recyclable is more likely than not being recycled.
4. **Each package should have only one label indicating whether or not the package is recyclable.** There should be no provision for labelling individual components of the same package. Ninety-six per cent of Canadians support product design that does not include non-recyclable components.³
5. **The proposed rules for labelling of plastic as compostable are a major concern.** These rules will end up leading to regrettable substitution of recyclable and/or reusable packaging with material that will end up in landfills or incinerators, and appear much weaker than the rules proposed for recyclability labelling. While many people living in Canada now have access to residential organics collection and processing programs, mostly operated

²Oceana Canada, national opinion survey, 2023 via Abacus Data.

³ Ibid.

by or on behalf of municipalities, these programs were not designed to handle plastic packaging.⁴ Further, rigid plastics can get confused with recyclable containers and contaminate recycling streams. As a result, we are concerned that much of the packaging that would pass the proposed certification tests in the framework document will end up being a burden in municipal organic waste programs, where they will either be separated out and sent to final disposal or contaminate soil amendment, or will contaminate recycling systems. Already, so-called compostable products and packaging are a rapidly growing part of the packaging market, as consumers and small businesses seek to make 'greener' choices and are faced with false claims about compostability. This is especially the case for single-use foodware as manufacturers promote 'compostable' alternatives to single-use plastic items that are subject to the new federal prohibition regulations. Encouraging the use of this type of packaging by allowing the environmentally-friendly "compostable" label might encourage further adoption of this problematic material and would not provide the environmental outcomes that are the basis for these plastics regulations. **We therefore recommend:**

- a. Prohibit the labelling of plastic packaging as compostable unless and until a producer can demonstrate that 80 per cent of people living in each province in Canada have access to free local organics collection services that is processing the full package in question.
- b. A single label should apply to the whole package (including all components). In other words, the package should not need to be dismantled prior to discarding into an organics bin.
- c. The labelling rules should prevent any packaging that includes toxic additives including PFAS, phthalates, brominated flame retardants or bisphenols from being labelled as recyclable or compostable. Toxic contaminants must not be recirculated in recycled products and packaging.⁵
- d. If a package is not compostable according to these criteria, and is not recyclable according to the criteria above, it should be required to be labelled as "waste" (as per with recyclability labelling above).

⁴ National Zero Waste Council, *Packaging and the circular economy: a case study on compostables in Canada*, 2018, available at <http://www.nzwc.ca/Documents/CaseStudyCompostablesCanada.pdf>

⁵ IPEN, *How Plastics Poison the Circular Economy*, February 2022, available at <https://ipen.org/documents/how-plastics-poison-circular-economy>

- e. The federal government must consult directly with municipalities and local organics service-providers before moving ahead with any provision that allows for a “compostable” label on plastic packaging.
6. We heartily support the proposed prohibition on plastic PLU produce stickers and agree that all stickers should be compostable. **In addition, it is important to specify that any adhesives used in the sticker must also be non-toxic and compostable.**
7. **All labelling requirements should be mandatory by 2026**, not 2030 as proposed. It is unreasonable to expect Canadians to wait until 2030 to be confident that when they buy a plastic product that says it is recyclable, it can actually be recycled in Canada. Further, delaying requirements on labelling might incentivize producers to select the less sustainable packaging in the medium term in order to avoid labelling requirements.

Federal Plastics Registry

We generally support the proposal for the Registry and have some recommendations to make it an even stronger tool for monitoring progress on achieving the important goal of Zero Plastic Pollution by 2030. It is crucial that the registry provide publicly-accessible data that can be used by researchers and policy-makers outside of government and industry to help shape future rules and regulations.

1. There does not appear to be a date for publishing data from the registry that is accessible to the public. **We urge you to include a provision that data will become available one year from the first reporting by producers. We further urge you to move up reporting to January 1, 2025**, to ensure a full year of data for 2024 is available as soon as possible.
2. We fully support the proposal that producer reports be verified by a third party
3. We believe all producers, whether they are subject to a provincial EPR program are not, should be required to report a minimum level of data beginning in the first reporting year:
 - a. Amount of plastic put on the market, where and by whom it was produced, broken down by resin
 - b. Amount of plastic imported, from where, broken down by resin

- c. Amount of plastic exported, including scrap, where and whom to, broken down by resin
4. The phasing in of reporting should apply to end-of-life data only.
5. Any company that handles plastic at any phase of its life cycle – from cracking, to manufacturing, waste disposal, recycling, reuse, and export – should be required to report into the registry. **The following plastic categories should be included for reporting:**
 - a. Pre-production pellets, flakes, powders, fibres, etc.
 - b. Medical and scientific research plastics
 - c. Outdoor power equipment (both electric and gas-powered)
 - d. non-electric household items (scales, cups, toothbrush, vase, rakes, decorations, etc.)
 - e. Sports equipment (non-electric)
 - f. Safety equipment (helmets, car seats, etc.)
 - g. Fishing and aquaculture gear - marine plastics such as fishing gear, floats, buoys, docks, etc.
 - h. Toys and games (non-electric)
 - i. Cigarettes, filters, e-cigarettes and vaping equipment
6. The definition of "successfully recycled" in the registry does not align with the definition of recycling for recycled content. In the second case, plastic to fuel is clearly excluded while in the registry, fuel production from plastic waste is included in the proposed "successfully recycled" category. This is a troubling inconsistency that must be corrected. We urge you to create four new categories for reporting at end of life to ensure a full picture of the life cycle of plastic in Canada and to enable Canada to meet its obligations under the Basel Convention:
 - a. Plastic to fuel
 - b. Plastic successfully composted
 - c. Plastic incinerated without energy generation
 - d. Plastic scrap exported (separated from the imported category)
 - i. With prior informed consent
 - ii. Without prior informed consent

We thank you for the opportunity to submit comments on the framework and technical paper. Please don't hesitate to contact the undersigned if you require any further information or clarification.

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