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Plastics Consultation
Plastics Regulatory Affairs Division
Environment and Climate Change Canada
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RE: Technical Issues Paper: Recycled Content for Certain Plastic Manufactured Items Regulations

The undersigned are independent environmental organizations with long histories of supporting policy developments that will ultimately accelerate Canada's transition from a linear to circular economy by harnessing its economic, social, and environmental benefits. Together our unique memberships represent more than 1,000 diverse organizations comprising the entire value chain that includes industry, municipalities, academia, educational institutions, small enterprises, and the general public.

We are active participants in the stakeholder consultations held by your ministry to support the Government of Canada's plan to achieve zero plastic waste by 2030, and take specific interest in the mandatory use of post-consumer recycled (PCR) plastic in products and packaging sold in Canada.

Policy positions are taken with a focus on environmental outcomes based on a hierarchy that prioritizes waste prevention, resource reutilization, and conservation. Our mission is to inform and educate all members of society about the generation of waste, the avoidance of waste, the more efficient use of resources, and the benefits and/or consequences of these activities.

We believe the circular economy can realign production and consumption patterns and redefine what we most value in people and planet.

COMMENTS IN BRIEF

PCR content standards are critical to the success of all the other plastic waste reduction policy directives as they will increase national recycling rates and support provincial extended producer responsibility initiatives.

Regulation should be scoped to include products and packaging sectors that have additional considerations and challenges, such as food-grade packaging and health-related products.

Regulation should be be scoped broadly and allow for a phased-in approach to bring certain product categories under force when investments take effect, and market conditions and other regulatory requirements can be managed. Exemptions should be limited and considered on a case-by-case basis and justified by the sector/obligated party.

The Government of Canada should examine purchasing criteria for all of its plastics goods to require high levels of PCR content. These criteria should be made part of the conditions of government stimulus to all public and private partners and shared with other levels of government

It is important the Regulation embrace and incent reuse as part of a policy recognition of the environmental preference of reuse over recycling as represented in the waste hierarchy. We recommend that plastic reusable products and packaging be mandated as other one-way items; be required to meet recycled content thresholds in their initial manufacturing; and be provided a one-for-one credit (by weight) toward future requirements when reused.

Given the current low recycling rates and limited use of recycled content, any new source of plastics discards is critical to shift markets and meet stated climate and zero plastic waste goals for 2030. Both pre-consumer and post-consumer recycled content are legitimate sources that should be included, however, given its presence in the disposal stream, post-consumer materials should be preferred.

As the chemical recycling industry continues to evolve, we propose that government continues to undertake research and, in particular, monitor and report the data on known projects and facilities, to gauge whether any of these processes can deliver plastic-to-plastic recycling and to determine the level and type of emissions and yields of each process.

Oversight of compliance and verification is critical to minimizing fraudulent or inaccurate claims, and safeguarding market fairness and a level playing field for obligated parties. As such, the method to measure, report, and verify is of utmost importance.

Absent from the Technical Issues Paper is any information on how obligated parties will be required to report and to whom; transparency of compliance to the public; oversight and compliance protocols, including roles and responsibilities of the federal government and applicable departments; and compliance mechanisms, fines, penalties, and remedies.

Reporting and tracking compliance underpin success of the Regulation. Given the importance of the plastic waste and carbon reduction goals and objectives, we suggest that bi-annual reporting be required of all obligated parties. A frequent, yet reasonable, timeframe allows government to better understand and take stock of market effects, as well as direction of the Regulation.

As the industry continues to evolve, we propose that government continues to undertake research and, in particular, monitor and report the data on known projects and facilities, to confirm that recycled content inputs sourced from chemical recycling processes can be verified.

Obligated parties should be required to report claims and compliance efforts through the newly established national reporting registry created and operated by Environment and Climate Change Canada.

COMMENTS IN FULL

As a collective we wish to express our support for mandatory use of post-consumer recycled (PCR) plastic; and emphasize that creating a national standard that sets minimum content for PCR plastic is central to drive broader public policy objectives related to plastic waste and carbon reduction, sustainable products, and economic growth.

Minimum PCR content standards are a pivotal policy lever that ensures well-functioning and expanded markets for discards and underpins the transition to a circular economy for plastics. It is critical to the success of all the other plastic waste reduction policy directives as minimum PCR content standards will increase national recycling rates and support provincial extended producer responsibility initiatives.

Since current market conditions favour low-price virgin resin production and competes with public or private sector efforts to recirculate plastic discards, mandating PCR content in product or packaging design is the only meaningful countermeasure to reassign value and transform market behaviours to a circular economy.

It is the single most direct way to incentivize private sector investment that is necessary to scale-up collection and recycling efforts, and facilitates the type of plastic product design innovations that will make Canada a global pacesetter.
While recognizing current market dynamics vary substantially between plastic products and packaging, as well as plastic resin types, PCR mandates should not give way to allowing exemptions or setting low expectations and/or minimum standards. Effective PCR policy and standards are anchored in meaningful starting points, and reliant on inclusion of long-term progressive targets that increase over time for each unique plastic product segment or packaging type. This approach will attract necessary investments and have positive market effects throughout value and supply chains.

Mandating effective PCR content requirements will influence Canada's consumption and production patterns related to plastic use refocusing investments to expand local management capacity reducing our reliance on offshore waste exports. This realignment will help Canada realize reduction gains in plastic waste and carbon emissions.

It is also important to note additional opportunity that the Government of Canada and its own procurement operations play. Government spending in Canada represents more than $200 billion annually and a prominent catalyst to shift markets. Construction materials, computers and cellphones, vehicles, and uniforms: the Government of Canada has significant opportunity to influence PCR usage in a variety of product spend categories through buying power.

Furthermore, PCR requirements are unlike any other policy tool by way of its ability to directly transition linear to circular practices for products and packaging that contain plastic. It is a critical market enabler, therefore, its design must be bold and future-focused. Markets have historically proven they will innovate and invest under the right conditions, and the Government of Canada should establish a robust policy to ensure it happens.

CONSULTATION QUESTIONS

1. **Should any product categories be added to or removed from the proposed scope? Please provide rationale.**

Poor reuse and recycling performance of plastic materials (i.e., less than 10%) is largely due to their low value as a product input and a recoverable asset. The demand for recycled content is a primary measure that can improve that value, and as such the Regulation and its ability to shift, shape, and stimulate markets to prefer recycled content is directly dependent on broad application that goes beyond the

suggested list in the Technical Issues Paper. Recognizing the need to allow for market adjustments—including product design, research and development, and the increased supply of quality plastic discards to meet new demand—and in particular, the plastic recycling industry to expand and refine their operations, we suggest a phased-in approach that supports and maximizes existing PCR content production activities and creates market conditions to stimulate additional investments. The phasing could include expansion of scope as well as year-over-year target increases based on a continuous improvement approach.

Narrowing regulation to the suggested list in the technical documents will limit market interest and potentially funnel investments to only a few product or package areas, which risks the objective to increase the value of plastic discards and incent necessary investments in collection and processing infrastructure and operations. Recent research on the use of recycled content reveal that while overall use is generally limited in Canada, there are several domestic manufacturers, in a variety of product segments, that are successfully incorporating recycled plastics but are not making any public claim.[1] These considerations are not included in the contemplated scope described in the Technical Issues Paper, and investments must be protected and further supported by the Regulation. Narrowing its scope may cause unintended consequences of redirecting feedstock from current successful applications and more broadly not have the market stimulating effects needed.

The Regulation should also be scoped to include products and packaging sectors that have additional considerations and challenges, such as food-grade packaging and health-related products. Given the circumstances surrounding some of these products it is reasonable that the timing for the compliance obligation be phased in and give time for markets to solve issues like additional regulatory requirements (i.e., *Canada Food and Drug Act*) and/or supply limitations (i.e., scaling at collection and recycling facilities).
Food-grade packaging makes up many plastics in, and comprises a large portion of, lowest-valued plastics in curbside collection programs. Exempting food-grade packaging would diminish the overall impacts of the regulation and its environmental benefits.

2. What actions could government take to facilitate an increase in recycled content for primary food packaging?

Scoping in food-grade packaging and phasing it into force under the Regulation is a very meaningful action the federal government can take to support future

[1] A Comparative Assessment of Standards and Certification Schemes for Verifying Recycled Content in Plastic Products; Eunomia and Circular Innovation Council, 2021: https://circularinnovation.ca/recycled-content-in-plastic-products

optimization of recycled content. By including it in the initial scope government sets market signals and expectations, and supports conditions needed to improve the reverse supply chains (e.g., collectors, sorters, and processors of plastic discards) to meet new demand. If food-grade is not included in the initial scope of the regulation there is a risk that infrastructure and operational investments will be made to accommodate demand in other product and package areas, which may make it more difficult to accommodate food-grade packaging in future. Food-grade packaging, given its ubiquitous presence in collection programs like blue box and unique sensitivities around sorting and sourcing from the recycling sector should be prioritized.

The Government of Canada should also examine purchasing criteria for all of its plastics goods to require high levels of PCR content. These criteria should be made part of the conditions of government stimulus to all public and private partners and shared with other levels of government through forums like Greening Government, Canadian Council of Ministers of the Environment, Buyers for Climate Action, and through partnerships like Federation of Canadian Municipalities.

It is also prudent to note that as part of the Mandate Letters 2021 the Minister of the Environment and Climate Change was directed to work with the Minister of Innovation, Science and Industry on the creation of a new infrastructure and innovation fund that will scale-up and commercialize made-in-Canada technologies and solutions for the reuse and recycling of plastics; and the Minister of Public Services and Procurement directed to strengthen federal procurement practices to prioritize reusable and recyclable products in support of our goal of zero plastic waste, and work with the Minister of Innovation, Science and Industry to support procurement of Canadian clean technology.

3. **Are there other product applications for which the use of recycled content is not feasible or permissible due to legal or other requirements or potential risks for human health or the environment?**

We suggest the Regulation be scoped broadly and allow for a phased-in approach to bring certain product categories under force when investments take effect and market conditions and other regulatory requirements can be managed. Exemptions should be limited and perhaps considered on a case-by-case basis and justified by the sector/obligated party.

4. **Should special consideration be given to certain types of reusable plastic packaging? Please provide rationale.**

Stimulating reuse activities in major sectors that use plastics packaging and goods could be one of the most effective uses of this Regulation. It has potential to have

the multiple effects of reducing use of virgin resources and its eventual loss to disposal, as well as supporting local economies and small- and medium-sized enterprises (SMEs). It is important the Regulation embrace and incent reuse as part of a policy recognition of the environmental preference of reuse over recycling (as represented in the waste hierarchy).

We recommend that plastic reusable products and packaging be mandated as other one-way items; be required to meet recycled content thresholds in their initial manufacturing; and be provided a one-for-one credit (by weight) toward future requirements when reused. Governments should also examine opportunities to introduce a credit trading system to give reuse applications additional value and opportunity for others that do meet PCR requirements to spur additional investment in reuse applications. Other reuse incentives should also be prioritized.

5. **Should certified compostable plastics be exempted from the Regulations, either for all or only some product applications, or not? Please provide rationale.**

Given the primary objective of the recycled content regulation is the displacement of fossil fuel-based plastic, certified compostable plastics should not be included in its scope.

While products and packaging manufactured from renewable and/or compostable materials does replace fossil fuel-based products they will have no effect on recycled content as a practice; and will have no effect in the use of plastic discards in their manufacturing. Given the importance of PCR content policy to the zero plastic waste objectives overall we suggest all focus be on fossil fuel-based plastics.

6. **Which option for biobased "drop in" resins, or any alternative option, should be adopted in the Regulations, and why? Should consideration be made to allowing only certain types of feedstocks (sources of biobased resin) for exemptions?**

Given the complexity and limited application and effects of biobased drop in, we refrain from providing a response at this time.

7. **Which option for defining sources of recycled content based on pre-consumer or post-consumer recycled resin, or any alternative option, should be adopted in the Regulations, and why?**

Given the current low recycling rates and limited use of recycled content, any new source of plastics discards is critical to shift markets and meet stated climate and

zero plastic waste goals for 2030. Both pre-consumer and post-consumer recycled content are legitimate sources that should be included, however, given its presence in the disposal stream, post-consumer materials should be preferred.
To allow for both sources but show preference for post-consumer materials we suggest the Regulation include two provisions:

1. allow for both sources to count in the short-term, phasing out the allowance for post-industrial (pre-consumer) when recycling performance is significantly increased; and

2. provide a tiered approach to provide more points/credits toward meeting mandated recycled content for post-consumer materials than pre-consumed.

This approach allows for all sources that would otherwise be lost to disposal to be redirected as manufacturing feedstocks but also support a market transition to prefer post-consumer materials to ensure attention and investments are paid to the larger, more difficult to manage portion of the disposed plastics.

8. Are there any environmental or technical reasons to consider excluding any particular methods of recycling plastic? Please provide evidence, where possible.

The most important aspects of ensuring the best environmental outcomes of optimizing recycling content in the Regulation will be detailed reporting and auditing protocols that are critical to substantiating claims to meeting obligated targets.

Given the immature and evolving nature of chemical recycling, and its current lack of viability at commercial scale, it is unlikely to be a source of recycled content for plastic manufactured items for the foreseeable future. Although the technology is feasible, chemical recycling, also referred to as *advanced* or *molecular* recycling, is a largely undefined term for processes and, therefore, can include energy from waste applications that are not recycling.

Due to their energy-intensive nature, some chemical recycling processes currently emit greenhouse gasses at higher rates than conventional recycling and require the same sorting efforts as mechanical recycling with no gains in yield.

As the industry continues to evolve, we propose that government continues to undertake research and in particular, monitor and report the data on known projects and facilities, to confirm that recycled content inputs sourced from chemical recycling processes can be verified.

9. Do you agree in principle with allowing the use of a mass balance method for measurement and reporting of recycled content? If not, please explain why.

To the extent that this Regulation is successful in increasing use of PCR content hinges on its tracking and verification protocols. Oversight of compliance and verification is critical to minimizing fraudulent or inaccurate claims, and safeguarding market fairness and a level playing field for obligated parties. As such, the method to measure, report, and verify is of utmost importance. Of all the existing chain of custody models, mass balance reporting provides the most flexibility for plastic value chain actors and product supply chain members. We recommend that mass balance be preferred, given the immaturity of the recycled content applications and to allow recyclers to leverage their existing operations and scale; and that mass balance systems boundaries be measured and claimed at batch level as well as site levels. Additionally, obligated parties that have multiple packaging or products captured under the Regulation should be allowed to meet its requirements on a product-by-product basis, as well as a total suite product/package supplied to the Canadian marketplace on an annual reporting basis.

Absent from the Technical Issues Paper, however, is any information on how obligated parties will be required to report and to whom; transparency of compliance to the public; oversight and compliance protocols, including roles and responsibilities of the federal government and applicable departments; and compliance mechanisms, fines, penalties, and remedies.

Oversight and compliance to claims and activities are critical to all obligated parties and of interest to the public in ensuring that this Regulation is effective and followed. Lack of oversight invites fraud, false claims, and ultimately, an unlevel playing field. In the future, details of compliance measures should be included in any discussion documents and the Regulation itself.

10. Should additional chain of custody methods be allowed? Please provide rationale.

We refrain from providing a response at this time.

11. Do you agree with the proposal to require annual reporting of recycled content use by product category? If not, what alternative reporting system would you propose to verify compliance with the requirements? Please provide rationale.

Reporting and tracking compliance underpins success of the Regulation. Given the importance of the plastic waste and carbon reduction goals and objectives, we

suggest that bi-annual reporting be required of all obligated parties. A frequent, yet reasonable, timeframe allows government to better understand and take stock of market effects, as well as direction of the Regulation. Bi-annual reporting also provides check-in periods that allows government to course-correct any aspects of the Regulation and elicit feedback from obligated parties on how their value and supply chains are reorganizing to adjust to requirements.

Related to reporting and missing from this Technical Issues Paper is the creation of a plastics registry that is necessary to collect reporting, track results, and combine effects of this regulatory measure with other aspects of plastic waste reduction plans by 2030. This registry should include additional information necessary to track broader plastic waste reduction goals, such as amount supplied into the marketplace; export and import of plastic discards; and recycling reporting gathered through provincial EPR/stewardship programs. Widely recognized is the lack of a national data centre or repository of plastics economy information in Canada and a mechanism to track gains toward 2030 targets.

Such reporting should be rolled into a broader registry planned to include data to track plastic production, imports and exports, use, and disposal in Canada and abroad. Reporting is crucial to understanding which products and packaging contain the most, and the least, PCR content.

12. If you are a business that may be subject to the Regulations, would you expect to encounter any challenges with implementing any of the chain-of-custody methods of measurement (for example, administrative impacts)? Please elaborate.

N/A

13. What evidence requirements, at minimum, would be needed to ensure compliance with minimum recycled requirements?

Obligated parties should be required to report claims and compliance efforts through the newly established national reporting registry created and operated by Environment and Climate Change Canada. As part of reporting, parties should be providing annual audited reports to substantiate claims. The protocols of that audit should be part of the regulatory package to standardize reporting that includes definitions; descriptions of what is allowed and not allowed in the claim; methodologies for measurement and reporting; deadlines; and consequences of reporting non-compliance.

14. If you are an importer of plastic products, what must be considered to obtain the required evidence for recycled content verification from overseas manufacturers? What other ways could importers demonstrate compliance?

N/A

CONCLUSION

These comments are offered to ensure this critical Regulation is effective as it is central to our 2030 plastic waste and carbon emissions targets and has the potential to make Canada a centre of excellence for plastic recycling.

Thank you for your consideration of these recommendations, and we are pleased to discuss the contents of this submission at your convenience.

Yours sincerely,

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