



December 9, 2020

RE: ENVIRONMENT AND CLIMATE CHANGE CANADA DISCUSSION PAPER - A PROPOSED INTEGRATED MANAGEMENT APPROACH TO PLASTIC PRODUCTS TO PREVENT WASTE AND POLLUTION

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Transmission: Original by email

Dear Mr. Ryan Parmenter, Director, Plastics and Marine Litter Division

Canadian Environmental Law Association (CELA), Health and Environment Justice Support (HEJSupport), Toronto Environmental Alliance, and Citizen's Network on Waste Management welcome the government's proposal to add "plastic manufactured items" to Schedule 1 to the Canadian Environmental Protection Act, 1999, (CEPA). Adding "plastic manufactured items" to Schedule 1 *"enable[s] the ministers to propose risk management measures under CEPA on certain plastic manufactured items in order to manage the potential ecological risks associated with those items becoming plastic pollution."* With the release of "A proposed integrated management approach to plastic products to prevent waste and pollution -DISCUSSION PAPER" (to be referred to as "the Discussion Paper", the government is in a position to identify steps towards the work on addressing plastic pollution in Canada and paves the way towards elimination of non-essential plastic products and materials.

Recommendation: We support the order to add "plastic manufactured items" to Schedule 1 to CEPA.

A Canadian approach to plastic should include the following objectives:

1. Reduce plastic production and ban all non-essential single-use plastics
2. Support reuse systems and infrastructure
3. Require that plastic products be free from toxic additives

4. Promote a safe toxic free circular economy that does not lead to recirculation of toxic chemicals and contaminated materials
5. Make companies fully responsible for the entire life cycle of their products

We offer the following comments on the Discussion Paper for your consideration.

We believe that the proposed Discussion Paper provides a clear path away from the traditional “take, make, use, dispose” economy towards a circular or closed-cycle economy that is based on key principles: reduce waste and pollution; use resources efficiently; focuses on durability and reparability of products; restore natural systems. By proposing a ban on non-essential single-use plastic, the government demonstrates its intention to phase-out products that fall outside the circular economy, contribute to the increase of waste volume and the extraction for virtual resources.

The Discussion Paper proposes “to regulate certain plastic manufactured items”. While this “will allow the Government to enact regulations that target sources of plastic pollution” and make a step towards “achieving a circular plastics economy”, we believe that it is important to regulate plastic beyond the types of plastic items identified in the Discussion Paper. Thus, we want to be sure that the words “manufactured plastic items” is interpreted sufficiently broad to capture items beyond single use items and include plastics used as casing for electronics, in textiles and other products and materials. We suggest to explicitly note that the suggested regulation of 6 types of plastic products is the beginning of a broader listing of non-essential plastic products for further restrictions and phase-out.

However, based on what is written in the Discussion Paper, the government is not planning to extend the list of plastic to be banned or restricted by saying that “For other single-use plastics, currently available data on the use, management and prevalence in the environment do not support a recommendation for a ban or a restriction at this time”. This statement excludes such non-essential plastic products like plastic balloon sticks, chopsticks, cotton buds sticks, oxo-degradable plastics, food containers or expanded polystyrene cups, and more. The list can easily be expanded using the Criteria for the characterization of single-use plastics suggested in the Discussion Paper.

Recommendation: We support the government’s approach to regulate certain plastic manufactured items. This would include the 6 types of plastic products to begin with.

Recommendation: However, regulations for restriction, prohibition and phase out should be expanded to include other non-essential plastic products beyond the plastics items currently covered in the Discussion Paper. This should include plastics used as casings for electronics, in textiles and other products and materials.

We also recommend that Canada:

- **Enforces the Regulation to ban the recommended six types of single-use plastic no later than March 31, 2021;**
- **Expands the ban on the recommended six types of single-use items to their import**

- **and export in waste stream;**
- **Recalls the banned six types of plastic items still remaining on the market in Canada from the shelves and ensures their sound phase-out;**
- **Provides a clear definition of “manufactured plastic items” to ensure that it includes items beyond single use items such as plastic used in casing for electronics, in textiles and other products and materials; and**
- **Ensures thorough assessment of all other non-essential plastic products to be considered for further phase-out and restrictions within one year.**

Compostables

The Discussion Paper outlines considerable opportunities to explore the use of compostables. This approach on compostables presents a range of problems that are not adequately considered in the Discussion Paper. They present similar problems as traditional single-use plastics. Specifically, compostables:

- Mislead consumers as they do not decompose under natural conditions, meaning they contribute to litter, pollution and waste;
- Add to municipal and public costs as they do not effectively break down in organics processing facilities, instead adding contamination and eventually ending up in the garbage stream;
- They are value recovery problematic, as they contaminate recycling;
- When improperly disposed, so-called ‘compostable’ plastic can cause similar harms to wildlife and the environment as fossil-fuel based plastic;
- They may contain dangerous toxic substances such as per- and poly-fluoroalkyl substances (PFAS), which are often added to disposable single-use food packaging like paper wrappers, cardboard containers, and takeout food containers to enhance the grease and water resistance of the products. These toxic substances persist in waste and compost streams, leading to potential human exposure. Exposure to PFAS leads to serious potential health effects in children and adults, affecting the immune system, and increasing the risk of cancer; and
- They do not promote the development of the circular economy, where resources are circulated.

Recommendation: Ensures that compostable and bio-based plastics are not excluded from a ban or restriction on single-use plastics.

Supporting the Goals of the Ocean Plastic Charter

Keeping in mind key targets set out in the Ocean Plastics Charter¹, including:

¹ <https://www.canada.ca/en/environment-climate-change/services/managing-reducing-waste/international-commitments/ocean-plastics-charter.html>

“Working with industry towards 100% reusable, recyclable, or, where viable alternatives do not exist, recoverable, plastics by 2030; Working with industry towards increasing recycled content by at least 50% in plastic products where applicable by 2030; Working with industry and other levels of government, to reuse and/or recycle at least 55% of plastic packaging by 2030 and recover 100% of all plastics by 2040, and working with industry towards reducing the use of microbeads in personal care products, and addressing other sources of microplastics”

Recommendations: Set up meaningful benchmarks for all producers which includes commitments by 2025, including:

- **100 percent of problematic and unnecessary single-use products and packaging eliminated through redesign innovation or alternative delivery models.**
- **100 percent of plastic packaging is designed to be durable or reusable.**

Canada’s efforts on plastics has the potential to make significant progress to protect the environment and health. However, substantial efforts is required to achieve these goals including:

- **Require that the target for recycling is increased over time with 70% by 2025, 90% by 2030, and 100% by 2035;**
- **Establish a publicly available list of safe non-toxic durable reusable alternative materials and products and expand this list while moving forward to phasing out of other types of single-use plastic materials and products; and**
- **Revise regulations to ensure that mechanical recycling is prioritised toward producer targets and to exclude all forms of disposal, including any type of thermal treatment and landfilling.**

Toxicity

The Discussion Paper refers to the findings of the Science Assessment of Plastic Pollution Report. However, it does not include any commentary or consideration of approach to address toxic substances and additives used or released throughout the lifecycle of plastic manufactured items noted in Section 8 of the Report.

Section 8 of the Science Assessment of Plastic Pollution Report² provides documentation of the available evidence demonstrating impacts of toxic substances and additives in plastics on the environment. While Assessment acknowledges substantial gaps in the knowledge in these areas and the need for research to address emerging issues related to toxicity and additives, there is a stark absence in addressing toxicity and additives in the federal approach to address plastics.

The Science Assessment report notes, “Although there is potential for environmental or human exposure to these compounds, these chemicals are considered to be under the purview of various

² <https://www.canada.ca/en/environment-climate-change/services/evaluating-existing-substances/science-assessment-plastic-pollution.html#toc45>

programs at ECCC and Health Canada and will continue to be managed in accordance with those programs.”³ However the Discussion paper does not include proposals to investigate the issue of toxic substances and additives in plastics, including the 6 types of single-use plastic items suggested to be banned.

It is important that the government’s approach on plastics - manufactured plastic items - be expanded to address toxic substances and additives that are used and released throughout the full life cycle of plastics. It is particularly important to acknowledge the presence of toxic chemicals in products made from recycled materials which can perpetuate the release and impact of toxic substances to the environment and health. A detailed list of toxic additives in plastic is included in the Draft updated technical guidelines on the identification and environmentally sound management of plastic wastes and for their disposal⁴. The proposed framework effectively overlooks and ignores the issue associated with toxicity but also makes commendable commitments to increase recycling rate and recycling content.

Recommendations:

- **Expand the approach to consider toxic substances and additives associated throughout the lifecycle of plastic manufactured items rather than the current approach to address them in a separate approach.**
- **Develop a regulation to prepare, adopt, and regularly revise a legally binding phase-out list of hazardous chemicals in plastic materials and products, including packaging to be used by producers. The list of hazardous substances should include, and not be limited to, polybrominated diphenyl ethers (PBDEs); cadmium; lead; short chain chlorinated paraffins (SCCPs) commonly used as softeners in plastics; bisphenol A (BPA) used in polycarbonate bottles, as well as tin lining; and PFAS used to resist water and grease in food packaging.**
- **Ensures that proposed integrated management approach to plastic products uses the above-mentioned phase-out list to address the toxic substances or additives along the lifecycle of designated plastic materials and require producers to disclose any use and presence of toxic substances in their products.**

Management of Other Plastic Items

The Discussion Paper outlines a proposed Management Framework for Single-use Plastics to assess whether management action is required. While this framework concluded 6 single use items warrant a prohibition, no further plans to gather data in a specific timeframe has been proposed for the remaining plastic items identified for other management approaches beyond prohibition. The

³ Environment and Climate Change Canada and Health Canada. Science Assessment of Plastic Pollution. Pg 72.

⁴ UNEP/CHW/OEWG.12/INF/14

[http://www.basel.int/TheConvention/OpenendedWorkingGroup\(OEWG\)/Meetings/OEWG12/Overview/tabid/8264/ctl/Download/mid/23551/Default.aspx?id=20&ObjID=23541](http://www.basel.int/TheConvention/OpenendedWorkingGroup(OEWG)/Meetings/OEWG12/Overview/tabid/8264/ctl/Download/mid/23551/Default.aspx?id=20&ObjID=23541)

federal government should outline a strategy and timeline for data collection using CEPA provisions such as Section 71.

Additional discussion is required on the use of exemptions in this framework. Criteria in support of essential function include: for example, accessibility, health and safety, security. However, no additional data to support a rationale for granting exemptions is presented. It is important that the framework builds in a mechanism to restrict exemptions, place time limits for such exemptions as to allow for further consideration and triggers for innovations in such areas, and include mandatory requirements to show how alternatives are evaluated for each plastic product under consideration.

Recommendation: Use section 71 of CEPA to collect necessary data on remaining plastic items and develop regulations by end of 2021 for management of the remaining plastic items identified in the Discussion Paper.

International obligations on plastic waste impact Domestic Plastic Management Approach

There are key international agreements that are important to consider as Canada seeks to reduce the harm associated with plastic pollution. It is important that Canada continues to recognize that a framework to address plastic pollution addressed in the Discussion Paper also requires a strong effective approach to management of plastic waste designated for transport outside of Canada for environmental sound management.

The Basel Convention Plastic Waste Amendments and the US-Canada Arrangement on trade of plastic waste are two critical international obligations that have significant implications for Canada's efforts on plastic pollution. Canada has continuously stated its commitment to support the Basel Convention Plastic Waste Amendments, which will put in place Prior Informed Consent mechanism on key plastic waste and upholds the management of plastic waste in an environmentally sound manner. This Amendment entered into force on March 31, 2020 and goes into effect as of January 1, 2021.

According to information provided by Environment and Climate Change Canada (ECCC), "on October 28, 2020, the amendments were tabled in Parliament for a waiting period of 21 sitting days, which ended on December 3, 2020. This is a key milestone needed before Canada can formally ratify the amendments." ECCC also noted that "the final steps required as part of the ratification process will be undertaken with a view to be completed as soon as possible."

However, the objectives of the Basel Convention Amendments may be significantly undermined with the recent completion of the US-Canada Agreement on trade of plastic waste, which will permit the movement of plastic waste between the two countries without a PIC framework. The agreement does not include the new definitions of "other waste" plastics (Y48) that were adopted at the 14th Conference of Parties to Basel Convention (COP14), and as such clearly derogates from the Convention as it will not be requiring the prior informed consent (PIC) procedure for waste that falls under Y48.

Such an arrangement may result in opportunities for proponents to move plastic waste from Canada to other countries via the United States without requiring consent. In this way the US can become a conduit for non-transparent uncontrolled plastic waste trafficking.

While the intent of the Arrangement is to facilitate and support environmentally sound management (ESM) of plastic waste, without a verification of ESM of waste, the US-Canada Arrangement may undermine Canada's effort to strengthen its circular economy, incentive increase recycling, and innovation in design of products. This arrangement will facilitate further movement of plastic waste derived fuel going to cement kilns and steel mills in Canada and the US. Without this agreement these would have to fall under the Basel Convention's rules regardless of what kind of plastic because the uncontrolled wastes under the Basel Convention rules cannot go to waste to energy facilities.

Recommendation: Complete the ratification of the Basel Convention Plastic Waste Amendments before January 1, 2021.

Recommendation: We do not support the US-Canada Arrangement on trade of Plastic Waste without the inclusion of a permitting, consent and validation mechanism.

Recommendation: The government approach should not accept imports of plastic waste containing prohibited single use plastic items as well as other items that are considered hard to recycle.

Recommendation: Require an annual report to be released to the public covering the movement and management of plastic waste to US and to Parties to the Basel Convention.

We are available to discuss our comments and recommendations.

Yours truly,

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