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SUBMITTED BY EMAIL: plastiques-plastics@ec.gc.ca

Tracey Spack
Director
Plastics Regulatory Affairs Division
Environment and Climate Change Canada
351 Saint-Joseph Boulevard
Gatineau, QC
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Dear Ms. Spack,

Re: Recycled content and labelling rules for plastics: Regulatory Framework Paper – City of Toronto Comments

In October 2022, the City of Toronto (the "City") submitted detailed comments to the Government of Canada's (the "Government") consultation paper *Share your thoughts: Development of rules to strengthen the recycling and composting of plastics through accurate labelling*.¹ We are encouraged to see that the majority of the City's comments were reflected in the Government's report *Developing rules for recyclability and compostability labelling and a federal plastics registry - What We Heard Report*,² released on February 17, 2023.

City staff are pleased to have another opportunity to provide comments in response to the Government's new consultation paper *Recycled content and labelling rules for plastics: Regulatory Framework Paper* (the "Framework"),³ published on April 18, 2023, for partners, stakeholders, and public comment.

In response to the new consultation, the City reinforces its support of the Government's continued efforts to prevent plastic waste and pollution through the Canada-wide Strategy on Zero Plastic Waste. The City's comments also identify additional regulatory approaches that the Government should take to strengthen the key elements of the framework: recycled content, recyclability labelling, and compostability labelling.

¹ [Share your thoughts: Development of rules to strengthen the recycling and composting of plastics through accurate labelling - Canada.ca](#)

² [En14-512-2023-eng.pdf \(publications.gc.ca\)](#)

³ [Recycled content and labelling rules for plastics - Canada.ca](#)

COMMENTS

1. Overview of the Framework

The City is pleased to see that the Framework has identified the need for policy harmonization to achieve a circular economy (**section 2.0 Overview of the Framework**). However, the City recommends that the regulations clearly define the circular economy as it is not adequately explained in the document. The City recommends that the Government provides more commentary on how the concept of the circular economy goes beyond the waste hierarchy to provide a systemic lens and solution to the issue of plastic waste. This explanation should make it clear that the circular economy is not synonymous with more recycling and that recycling is only part of the solution, which should only be done after exhausting other reduction, reuse, and diversion options.

The City also recommends that the strategies mentioned in this Framework are key approaches to divert plastic waste from landfill. In the waste management hierarchy, these approaches fall near the end of it (i.e., energy recovery, and recycling). The City recommends that the Government devise additional strategies near the front of the hierarchy (i.e., reduction, repair and reuse, and remanufacture and refurbishment) that would encourage the public and manufactures to rethink their need for an item before purchasing (even if made from recycled content) and seek ways to reuse or repurpose an item before placing it in the recycling stream.

Subsection 3.2 Application to plastic packaging and single-use plastics defines packaging as “anything used for the containment, protection, handling, delivery, storage, transport and presentation of goods, from raw materials to processed goods, from the producer to the user or consumer, including processor, assembler or other intermediary.”

The current definition proposed in the Framework could be perceived incorrectly since an assumption could be made that certain plastic packaging and single-use plastics are included (e.g., coffee pods); therefore, the City recommends that the Government clarifies the definitions proposed in the Framework.

As outlined under **subsection 2.1.2 Provincial and territorial measures**, regulations enacted under *Canadian Environmental Protection Act, 1999 (CEPA)* would operate alongside provincial and territorial extended producer responsibility (EPR) policies. The City supports harmonizing EPR as a strategy while minimizing the implementation of provincial and territorial EPR programs. This alignment and harmonization within existing EPR regulations should be prioritized; however, not at the risk of negatively impacting what is already underway.

2. Recycled content requirements

Subsection 4.2.2 excludes compostable plastic packaging from recycled content requirements. As outlined in previous comments to the Government, the City does not support this exemption as these materials are a new and emerging material that may not be accepted by local Blue Bin recycling and Green Bin organic programs. There is opportunity for the

Government to proactively consider exploring potential policy interventions which support the circular economy by looking at options for incentivising or requiring recycled content requirements for compostable plastic packaging.

3. Labelling of industrial, commercial, and institutional packaging

The City would like to reiterate that the Government should work with producer responsibility organizations, provinces and territories, including through the Canada Council of Ministers of the Environment, to ensure that all plastic products that qualify as recyclable are captured and managed by EPR programs and not just be limited to residential sources. This recommendation may help to develop new and more stable markets for a wider range of plastics that could address existing gaps between IC&I and residential recycling standards/programs, and could ultimately further advance plastics recycling nationally.

Misleading environmental statements on packaging are just as likely to occur, and influence how packaging is managed in the IC&I sector. Therefore, by exempting the IC&I sector from the labelling regulations, the Government could unintentionally limit the potential for scaling plastic recycling in Canada. Given the amount of packaging and single-use products consumption and/or waste generation by IC&I, the City recommends that the Government include IC&I packaging in the labelling regulations to ensure Canadian businesses are working to slow the process of plastic recycling their operations.

4. Recyclability and compostability labelling rules

The City recommends that the Government's criteria for labelling an item as compostable be modified to consider the following thresholds: that the product accepted for collection in more than 80 per cent of households, and ensure that the product be successfully composted/processed in existing, operating organics infrastructure.

It is unclear how the move to harmonized EPR programs could be enhanced by the introduction of the proposed recyclability criteria. The City recommends that the Government work with the provinces and territories to develop the details that will ensure that EPR programs are enhanced, specifically as they relate to available collection, sorting, and re-processing systems.

With respect to Subsection 5.3.5 Criterion 3: Re-processing the City recommends that the Government track and report data where plastics collected in Canada are re-processed, aggregated commodity prices at which different plastic types (e.g., polyethylene terephthalate and high-density polyethylene) are sold because it will legitimize their value as a market commodity, and encourage end-use application of the re-processed feedstock.

The City supports the Government's communication that if recyclability labels are used for non-plastics, it is imperative that they follow rules related to environmental claims, such as those under the *Competition Act*, which prohibits, among other things, false or misleading representations and representations that are not supported by adequate or proper tests.

The City supports the inclusion of Quick Response (QR) Codes to provide information about the item's recyclability as outlined in **subsection 5.4.3**. However, the City recommends that the Government recognize the digital divide given that QR codes will not be fully accessible (i.e., lack of physical access and digital literacy) to all potential users; therefore, complementary public education approaches should be necessary to ensure a broad shift in behaviour.

This section also depicts the proposed recyclability labelling for plastic packaging and single-use plastics: label 1 for something recyclable; label 2 for something non-recyclable; and label 3 for something collected for recycling. The first two labels are communicated clearly; however, label 1 and label 3 are very similar, with the third potentially being difficult to differentiate, especially if using very small font on a package. The City recommends that the Government redesign label 3 to be more visually distinct from Label 1.

Subsection 5.5.3 Labelling requirements for compostable items mentions that "the Government heard that both the public and facility operators have difficulty distinguishing compostable plastics from 'look-alike' plastics that do not compost in industrial composting conditions." The City supports the requirement that all compostable plastics be labelled as non-recyclable in **subsection 5.5.3**. However, confusion may persist with an icon of non-recyclable including the chasing arrows because it implies it is a human problem, when in fact it is a technology problem in distinguishing these items. The problem is that pre-processing systems, which are required to keep contaminants out of the City's anaerobic digestion system, cannot distinguish conventional plastics from compostable plastics, resulting in all these items being screened out. Therefore, the City does not want these materials their processing system. Compostable plastics do not contribute any value to Toronto's anaerobic digestion process.

While the City is supportive of the Framework's labelling requirements for compostable items in an effort to visually distinguish these products, which can serve to reduce consumer confusion, this labelling may encourage consumers to put packaging and single-use products labelled as compostable in the City's Green Bin stream, where it will be pre-processed out of the anaerobic digestion system. This may increase contamination and will not improve the facility's ability to sort those products. The Government should consider modifying existing or developing a new certification process that ensures compostable plastics are able to be processed in the communities in which they are being marketed. This could be accompanied with producer responsibility requirements that would pay for necessary technology upgrades to municipal systems and promotion and education for consumers and businesses.

Although the Framework recognizes the value of third-party standards and certifications for recycled content as a means to provide a level playing field for industry, the City is not aware of any existing third-party certification program in Canada that would ensure a plastic item or item marketed as compostable plastic could be effectively composted via anaerobic digestion. Therefore, the Government should ensure that any item claiming such compostability should be able to demonstrate this claim through effective capture and processing in multiple, real-world, operating processing facilities (both anaerobic and aerobic), which are widely used in each province and territory.

The recycled content has a reporting and recordkeeping requirement (**subsection 4.5.1**); however, it is not explicitly clear the audience for the report. The City recommends that the

Government establish that any data would be publicly reported, aggregated, and summarized for public consumption.

5. Enforcement mechanisms

In order to ensure that regulated parties abide by the regulations, compliance with the labelling rules and recycled content should be monitored and validated. This special consideration/accommodations must be given to jurisdictions as the definition of recyclability will vary by jurisdiction. Therefore, the City recommends that the Government reviews *CEPA, Part 10, Enforcement*, to ensure that the appropriate mechanisms or penalties for non-compliance with proposed recyclability and composting labelling rules (including reporting and recordkeeping), and describe how enforcement would work including the intersection with existing competition and labelling laws. The City also recommends that the Government randomly conduct regular, independent audits of facilities, material logs, sourcing documents, and any other supporting documentation.

6. Collaborate with municipalities to develop an outreach plan

As a federal-led initiative, it is imperative that the Government develop specific public education materials with the purpose of informing and educating partners, stakeholders, and public on the regulatory approaches being implemented to strengthen the key elements of the Framework: recycled content, recyclability labelling, and compostability labelling. Therefore, a comprehensive education and outreach approach should be part of the regulations, and the key messages should be aligned with Canada Plastics Pact's mandate, as appropriate. The education and outreach plan should be flexible to consider the unique resource recovery approaches and technologies employed in different jurisdictions throughout the country, including provinces and territories. The plan should also consider development of support material to help educating businesses on the suitability of various products and packaging to help them make informed decisions on material design and composition.

The plan should consider a wide range of tactics and outreach to reach diverse communities and demographics across Canada, recognizing the diversity of populations in larger municipalities, such as the City of Toronto.

In order to build the public's trust and encourage behavioural changes, the City had recommended that the Government engage directly with municipalities during future consultations to help design guidance or educational materials to accompany the launch of the recycled content and labelling rules for plastics. A key approach that the City proposed was for the Government to leverage existing municipal and emerging producer responsibility organization programs and resources when planning education, outreach, and implementation of new recyclability labelling rules. Direct financial support would provide an efficient way to roll out new federal communications and programming through municipal channels.

7. Technical guidelines and market supply

Plastic manufactured items that are made before 2030 and do not adhere to the 50 per cent recycled content could be stockpiled and still in circulation after 2030. The City recommends that the Government clarifies if these items can be used or sold after 2030 until manufacturers stockpiles are depleted, or whether the products can be manufactured for export before or after 2030.

Due to the demand for recycled plastics being higher than the potential supply within the blue box programs, prices for raw recycled material may increase as manufactures try to meet their recycled content requirements, which would result in a need to import recyclables into Canada to be processed. This means that the cost to consumers for their goods would increase as well as the amount of spending for education and promotion to encourage more diversion. The City recommends that the Government strongly consider the market supply and demand for recycled material inputs to ensure that producers do not need to import.

CONCLUSION

Thank you for the opportunity to provide comments on the *Recycled content and labelling rules for plastics: Regulatory Framework Paper*. The City of Toronto looks forward to the Government's draft regulations.

Should you have any questions regarding our submission, please contact Annette Synowiec, Director of Policy, Planning & Outreach, Solid Waste Management Services, by email at Annette.Synowiec@toronto.ca or by telephone at 416-392-9095.

Yours truly,



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