



March 30, 2022

Environment and Climate Change Canada
351 Saint-Joseph Blvd.
Gatineau, Québec, K1A 0H3
Sent via email: contenuRecycleRecycledContent@ec.gc.ca

Re: Response to Technical issues paper: Recycled content for certain plastic manufactured items Regulations

Dear Environment and Climate Change Canada:

I am writing to you today on behalf of the members of the Alberta Plastics Recycling Association (APRA). APRA is a not-for-profit association that has operated for 30 years, with a focus on the facilitation of sustainable plastics recycling and the diversion of plastics from landfill. Our members include participants in the full plastics value chain, including resin manufacturers, companies involved in manufacturing plastic products, as well as processors and recyclers of plastics. APRA and its members and partners are committed to finding solutions to manage and recycle plastics, and to realize the value of the circular economy keeping plastics out of the environment.

We appreciate the opportunity to provide feedback on the Government of Canada's recently published technical issues paper on *Recycled content for certain plastic manufactured items Regulations*. We share the Federal Government's objective to move away from a linear "take-make-dispose" economy towards a circular economy for plastics and divert plastics from landfills.

The following letter outlines our input on the matters outlined in the technical paper on *Recycled content for certain plastic manufactured items Regulations*, published in February 2022. APRA supports the responses from our colleague the *Chemical Industry Association of Canada (CIAC)* and we reiterate many of their recommendations here.

I. General Statements

APRA is supportive of requirements for minimum recycled content in certain plastics. APRA's view is that minimum recycled content requirements should be data driven, using a phased approach to manage across the gap in demand-supply. In addition, gradually phasing in the recycled content requirements over time will put Canadian companies and regulators in a better position to transition to a circular economy in an efficient and cost-effective manner. The proposed phase-in of the regulation should reflect the timelines associated with implementation of Extended Producer Responsibility (EPR) programs and significant investment by government and industry in recycling infrastructure and innovation. With EPR and investments in place, governments and industry will have greater confidence that supply of recycled plastics available, minimising the risk of inflationary pricing and market access distortion.

Recommendation 1: Undertake a market assessment, layering in the implementation of EPR and infrastructure and innovation investment, to set an appropriate recycled content minimum requirement that is both progressive and achievable. Impacts on price and competition should be included in the analysis.

Recommendation 2: APRA recommends that the Federal Government take a phased approach to implementing recycled content minimums for packaging. The percentage of recycled plastics in products should be phased-in to align with the multi-year roll-out of provincial EPR programs and investment, as well as the results of the market assessment in Recommendation 1.

Government should require that all material types for packaging (e.g., paper, metals, glass) be subject to similar requirements. In order to meet goals of a circular economy, and strive towards a low carbon future, plastics cannot be the only material that must include recycled minimums. We urge the Government to take a broader approach across all materials and ensure a level playing field for material choices.

Recommendation 3: We urge Government to take a broader perspective and require minimum recycled content for a larger range of materials used for packaging to create an even playing field for all materials.

It is also important for regulators to look at emerging plastics, such as those that can anaerobically digest in landfills. While APRA supports the circularity of plastics, there are some types of plastics that will still end up in landfills via their application (such as garbage bags). In cases like these, there is value in requiring not only recycled content minimums, but also other attributes, such as anaerobic digestion whereby biogas from these facilities can be harnessed for energy production.

Recommendation 4: We urge the Government to engage with industry to consider opportunities where innovative materials allow for a range of technologies – like anaerobic digestion facilities - that might complement recycled content minimum requirements and meet broader policy objectives for a circular economy.

II. Phased Approach Addressing Today's Realities

APRA shares the Government's interest in creating a circular economy for plastics and diverting plastics from landfills. By shifting Canada's mind-set from single use to re-use, plastics can be transformed into an ongoing resource in a circular economy. The result will be continuous and efficient re-use of resources in the economy providing a low-carbon advantage across Canada's manufacturing sector through the integration of recycled plastics in products.

Overall, APRA is supportive of the direction proposed, which focuses on shifting from a linear to a circular economy for plastics. By setting a minimum recycled content requirement for plastics, Canada will realize environmental benefits and unlock economic gains via the recovery of plastic goods. However, currently there is insufficient supply of recycle feedstock to meet recycler demand for recycled plastics across North America. As recovery rates increase under provincial Extended Producer Responsibility (EPR) programs,

and use of post-consumer recyclate¹ (PCR) extends beyond traditional polyethylene terephthalate (PET) applications, the existing gap in recycling infrastructure in Canada will be amplified and inadequate to meet the demand for recyclate. This regulation will likely propel demand for recycled plastics even further, creating a challenging situation for companies in Canada in a couple of ways.

1. **Price:** Prices for recyclate vary across material type and fluctuate on the market depending on a range of factors, including supply. For example, the Independent Commodity Intelligence Services reports that from January 2021 to January 2022 colourless food-grade recycled polyethylene terephthalate (R-PET) pellets almost doubled in price, increasing from approximately 0.69 USD/lb to 1.15USD/lb. There is a significant risk that the mandatory requirement for recycled plastics in some products may create inflationary prices for recyclate at a time when there is insufficient supply.
2. **Competition:** Given that 86% of plastics and recycling companies in Canada are small and medium-sized businesses (SMEs), they will be challenged to compete on the North American market for a limited supply of recycled plastics, particularly when solely servicing companies located in Canada. As such, larger companies have an opportunity for greater reach due to purchasing power to purchase the recycled materials, potentially leaving the aforementioned small to medium-sized companies at a competitive market disadvantage due to pricing pressure due to the regulatory requirements. As a result, this economic competitive disadvantage does not service the majority of Canadian plastics and recycling companies.

The economic impacts for businesses stemming from limited supply must also be a primary consideration for regulators. APRA encourages Government to prioritize and include an economic impact assessment in pre-implementation analysis. A phased approach should be taken if introducing minimum recycled content requirements to mitigate supply concerns and inflationary pricing, which have already been observed. If the proposed regulations create intense competition for recycled plastics before there is sufficient supply and infrastructure to manage it, companies – particularly SMEs – will struggle to compete in Canada. Canada has an opportunity to lead in this space if the proposed regulations for recycled content consider the current plastics and recycling landscape in Canada.

The proposed target of 50% recycled content by 2030 sets some of the most aggressive recycled content goals in North America. In 2021 America's Plastic Makers announced the [5 Actions for Sustainable Change](#) plan, which has as its first action to require all plastic packaging to include at least 30% recycled plastic by 2030. APRA's view is that plastic recycling rate targets should be ambitious and realistic at the same time and based on and commensurate with a reasonable pace of collection and sorting infrastructure being established. Targets should also be science-driven and data-based to ensure the goals are achievable based on key factors, such as supply and capacity. Targets should also consider the Canadian context in a global market to ensure that Canadian companies can remain competitive and sustainable while participating in the plastic circular economy. A phased-in approach for introducing recycled content minimums for manufactured plastic items is desirable when aligned with EPR rollouts and other programs that provide confidence in a steady supply of recycled content.

APRA also proposes that the phase-in of the regulation should reflect the timelines associated with full deployment of Extended Producer Responsibility (EPR) programs in leading provinces, namely British Columbia, Ontario, Québec and Alberta. These provinces represent 85% of the population in Canada. Once

¹ recyclate: Plastics material resulting from the recycling of plastics considered as waste (Reference: ISO 472)

EPR is fully rolled-out and recycling targets are being met, government and industry can have greater confidence that supply of plastics will be more readily available; thus, reducing the risk of inflationary pricing and allowing SMEs the opportunity to compete for this valuable resource.

Gradually phasing in the recycled content requirements over time will put Canadian companies and regulators in a better position to transition in a steady and cost-effective manner.

Recommendation 5: The regulator should assess the economic impacts of introducing these regulations on businesses when there is insufficient supply. Impacts on price and competition are two considerations that should be included in the Governments analysis.

Recommendation 6: APRA recommends that the Government take a phased approach leading up to 2030 for introducing recycled content minimums for manufactured plastic items. The percentage of recycled plastics in products should be phased-in to align with the multi-year roll-out of provincial EPR programs and the availability of recycling infrastructure to create the recycle.

III. Supporting Investment in Recycling Infrastructure and Innovation

Meeting government targets on minimum recycled contents for plastics not only relies on the right regulatory framework, but also on an environment that attracts investments in innovation and infrastructure. This will require an enormous commitment from all stakeholders, with the right policies in place alongside new investments, innovations, and advancements in mechanical and advanced recycling. Increased collection, better sortation, and upgraded recycling infrastructure is needed to increase the supply of recycled plastic. Upgrading recycling infrastructure and enhancing recycling capabilities will require heightened investments by government and industry.

According to a 2021 study, Canada's recycling infrastructure capacity gap will require a capital investment of \$4.6 - \$6.5 billion². Without that investment in recycling infrastructure, Canada's supply of plastics will need to go to the US for processing and domestic access to the supply will be even further limited. Public-private ventures such as the proposed Circular Plastics Innovation and Infrastructure Fund (CPIIF) is an example of how industry and government can partner to achieve goals.

Not only does working with industry result in greater environmental stewardship it also leads to significant economic benefits for Canada. There is a lost opportunity cost of \$7.8 billion per year, which is expected to grow to \$11.1 billion per year by 2030³, from not taking advantage of recoverable plastics. Investment in recycling infrastructure and technologies will help grow domestic resiliency in this valuable resource and contribute to establishing a low-carbon economy in Canada, given that the use of recycled plastics has a lower environmental footprint than use of virgin plastics.

² Oakdene Hollins and Dillon Consulting Limited. (2021). Waste Plastics Collection and Treatment Infrastructure in Canada: A Needs Analysis to 2030. Government of Canada, Environment and Climate Change Canada.

³ Deloitte, "Economic study of the Canadian plastic industry, markets and waste", Government of Canada, Environment and Climate Change Canada, 2019

Recommendation 7: Phasing-in of these minimum content requirements should be linked to significant investment by governments and industry in the deployment of modern mechanical recycling infrastructure and investments in advanced recycling technologies.

IV. Scope of Regulations

Section 1 of the technical issue paper states that “[t]he Regulations could apply to anyone (person or business) that manufactures, imports, or sells the items in Canada”. This suggests that even material manufactured for export to a country that does not require recycled content in those products, must comply with the regulations. APRA appreciates the opportunity to engage at this early stage and participate in the scoping discussion and welcomes further discussion for clarity on scope and definition of terms like manufacturer and importer.

Recommendation 8: APRA recommends that the regulations on recycled content minimums be applied to those products manufactured or imported for sale in Canada and exclude plastic items manufactured in Canada for the purpose of export as it does not interfere with achieving the intended purpose of the regulations.

Recommendation 9: APRA recommends that government include additional proposed definitions of terms in future consultation and engagement activities with industry, specifically around the definition of ‘manufacturer’ and ‘importer’.

V. Measurement, Reporting and Verification

Sections 5 and 6 of the technical issue paper consider factors related to the measurement, certification, and traceability of recycled plastics in products. It is important to note that the Bureau de normalisation du Québec (BNQ) is already in process of developing a standard related to these elements in collaboration with industry and governments across Canada, including a representative from ECCC. The technical committee for the *CAN/BNQ 3840-100* mandate consists of establishing methods to calculate the recycled content as a percentage of the resulting products and determining how the plastic recycle used in the resulting products will be accounted for through the supply chain. The technical committee is currently developing a standard that addresses several the consultation questions outlined in this technical issue paper. Once completed, this work will help inform the deliberations by the regulator.

APRA supports an approach to measurement, reporting and verification that:

- provides flexibility to accommodate different technologies and supply chains.
- is technologically neutral for both mechanical and advanced recycling technologies.
- is consistent with other international third-party certifications.
- aims for harmonization with key trading partners.
- can be attributed or allocated throughout the system.
- supports aggregated reporting and limits the administrative and cost burden on industry.

APRA also supports the use of the mass balance chain-of-custody model because it meets the principles outlined above. A mass balance approach can provide us with the option of using blended content and/or credits *within the defined boundary of the mass balance system*, depending on what is most suitable for different technologies and supply chains. It provides us with the most flexibility from a science and engineering perspective and, in addition, mass balance can be used with all the traceability methods.

Recommendation 10: APRA recommends the adoption of a mass balance chain-of-custody model for measuring recycled plastics since it provides the most flexibility to meet different technology and supply chain parameters.

Recommendation 11: The regulator should leverage the work being led by the BNQ to inform the measurement and verification of recycled plastics in products.

The following section outlines responses to the consultation questions.

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

There are many factors to consider around the technical feasibility of using recycled content in packaging product applications and formats. It takes time to innovate on enhanced packaging/product design, technology advancements and scale-up for some applications such as medical, food, pharmaceutical, cosmetics, or other product packages with health and safety related restrictions to ensure the health, safety, and performance of the packaging. As such, it is prudent to recognize the need for exemptions in the regulation.

APRA recommends that the Government recognize the necessity for and the allowances of exemptions in the regulation, especially at the onset of introducing recycled content mandates.

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

There is a tremendous amount of technological innovation by industry looking at opportunities to increase recycled content for primary food packaging through both mechanical and advanced recycling. Currently there is an inadequate supply of qualified recycled plastic for food packaging. Improving recycling infrastructure is a critical step towards ensuring an adequate supply of recycled content is available to the market.

Recently the US Food and Drug Administration (FDA) has provided a *Letter of No Objection* to companies for its use of post-consumer recycled, linear low-density polyethylene (PCR-LLDPE) for food-contact purposes⁴. Relevant regulators in Canada should engage the US FDA to understand the parameters of applicability of these decisions and determine if a similar regulatory approach is possible in Canada.

⁴ <https://globalnewsandentertainment.com/fda-green-lights-revolutions-pcr-lldpe-for-food-contact/>

APRA also recommends that the recycled content requirements are phased in to ensure that there is an adequate supply of qualified material and 100% confidence that there are no health impacts to Canadian consumers.

Q #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?

Like the proposal to exclude primary food packaging from the regulations at this time given the specific health, safety and performance requirements associated with food contact requirements, APRA notes that the same exclusion should apply to medical grade plastics, drugs and natural health products that are ingested or applied to people. In addition to having the Regulations list certain product application exclusions, we suggest that producers should also be allowed to submit for a waiver based on potential safety and risk concerns.

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

Yes, special consideration should be given to flexible and reusable “packaging”. In view of the intent of that type of packaging and the need for durability, safety through many multiple uses, and the positive environmental lifecycle impact, we recommend that this type of packaging is exempt from any recycled content mandate.

Reusable “packaging” often has higher standards and/or performance than other packaging. Integrity must be maintained in order to reuse certain products/packaging they must maintain their integrity, which could be impacted through use of recycle from mechanical recycling. In addition, the re-use application of the “packaging” may be different than the intended use and in some cases may be used to store food items (e.g. plastic pails).

It would be beneficial for a definition of re-usable to be provided by government to inform consultation activities. There are global definitions that are available and should be considered as a guide for ongoing consultations by the regulator on this topic.

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

Yes, compostable plastics should be exempted from these regulations. Compostable plastics are chemically distinct from conventional plastics. Thus, utilizing recycled plastics in products or packaging that are intended to compost in the environment and are not intended to be recovered for further recycling may not be technically feasible. Moreover, compostable plastics can act as a contaminant in conventional plastic waste streams.

A system-wide approach to the management of compostable plastics is needed and should be the subject of a distinct consultation process. This includes examining options around appropriate use of compostable

plastics in products, product testing standards and certification, and composting facility requirements and standards.

Work is under way by the Bureau de normalisation du Québec (BNQ) and Ontario's Ministry of the Environment, Conservation and Parks (MECP) to refine the management of compostable plastics and this work should progress distinct from the requirements being outlined in this technical paper.

Q #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?

Drop-in bioplastics are chemically identical to fossil-based plastics and have the same environmental impact as fossil-based plastics when left in the environment or left unrecycled. They are compatible with the use of recycled resin; therefore, it seems reasonable that there should be no exemption for biobased plastic products, and they should meet the same recycled content requirements as products made from fossil-based plastics.

Q #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?

This is not a simple question to address. The absence of sufficient supply, the absence of sufficient infrastructure, and the pressure to meet growing demand suggest that a middle ground must be carved to meet the realities of current conditions. Government should consider taking a phased approach to how to apply use of pre/post-consumer recycle to targets. Our goal should be to prevent all plastic from entering the waste stream. As such, any product that would have entered the waste stream if not reused or recycled should fall within the definition.

At this time, APRA advocates an approach to defining recycled content that includes both mechanical and advanced recycling as well as pre-consumer, post-consumer and industrial/commercial/institutional recycled material be permitted to meet requirements. As EPR is implemented in provinces over the next few years and supply increases, government could shift those recycled content minimum requirements. The regulator should examine all economic and supply considerations prior to determining the maximum limit percentage of pre-consumer resin to allow in the regulation's requirements.

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

Both mechanical and advanced (chemical) recycling are important methods of recycling plastics, and both should be recognized as such by the government. Since only a portion of plastics can be recycled via traditional mechanical recycling methods, innovative advanced recycling technologies should be considered to address the gap of plastics that are difficult to process mechanically.

Reinforcing the value of both technologies speaks to the use of both mechanical and advanced recycling sequentially to achieve optimal results. For example, material that has been mechanically recycled several

times and has lower performance qualities after multiple cycles could then be recycled through advanced recycling technologies and converted back into foundational building blocks (like virgin resin) and remade into new plastic products.

It is only with the use of both mechanical and advanced (chemical) recycling that we can attain the goal of zero plastic waste.

Q #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.

Yes, mass balance is a critical methodology for measurement and reporting of recycled content. Utilizing a mass balance approach is also essential in achieving successful commercialization of advanced recycling.

Often, physically tracking where the recycled feedstock ends up is not practical or possible. The mass balance approach provides a solution that effectively, reliably, and credibly calculates and allocates materials from advanced recycling processes to resulting products. To be able to make credible claims based on mass balance, a standardized approach to mass balance (including attribution) is needed. There exist today, well established, third-party, internationally recognized verification and certification processes that many organizations use for recycled content certifications. These should be permitted for chain of custody, verification purposes.

Transparent certification standards and methodology as well as certification reciprocity throughout the chain are also important aspects for consideration.

Work is currently underway by the Bureau de normalisation du Québec to develop a standard associated with this matter and should be leveraged to inform the regulator.

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

Work is currently underway by the Bureau de normalisation du Québec to develop a standard associated with this matter and should be leveraged to inform the regulator.

Q #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.

No, APRA does not agree with the proposal to require annual reporting of recycled content use by product category. APRA proposes that the reporting should be done for a corporation/company using total plastics shipped in a calendar year, as per current EPR report, and percent of PCR from that total amount, not by product category. The reporting should be annual, and the audit should be regularly conducted but not annual. This high-level of reporting will afford flexibility to deal with:

- supply issues;
- seasonality of product categories; and,

- differences between package types for which it is hard to find good post-consumer recycle versus other packaging where PCR is easier to find and use.

This approach can be re-assessed after the first few years of implementation to determine if adjustments would be beneficial.

We suggest the standard currently being developed by The Bureau de normalisation du Québec (BNQ) on this issue should also be consulted and referenced prior to any decisions are finalized for the Regulations.

Q #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 (e.g., administrative impacts)? Please elaborate.

It depends on the level of complexity associated with the chain-of-custody system being implemented. Administrative burden should be minimized, and the system should allow for as much reporting flexibility as possible.

We suggest the standard currently being developed by The Bureau de normalisation du Québec (BNQ) on this issue should also be consulted and referenced prior to any decisions are finalized for the Regulations.

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

We would recommend that evidence requirements be consistent with related programs, like Extended Producer Responsibility programs to streamline processes and systems.

Work is currently underway by the Bureau de normalisation du Québec to develop a standard associated with this matter and should be leveraged to inform the regulator.

Q #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?

The requirements should not differ between requirements for Canada based companies and importers.

We suggest the standard currently being developed by The Bureau de normalisation du Québec (BNQ) on this issue should also be consulted and referenced prior to any decisions are finalized for the Regulations.

Conclusion

Thank you for the opportunity to provide our comments on the technical issues paper on *Recycled content for certain plastic manufactured items Regulations*. APRA is supportive of the general direction of the

regulation, and we view the recommendations outlined herein as a way to put in place a well-managed approach. By taking a leadership role in helping to build the supply and demand dynamics for recycled content, creating incentives for investments and supporting the necessary infrastructure and innovation the Government of Canada can best support the circular economy in Canada. We look forward to continued stakeholder engagement on circular economy activities in the future. APRA remains committed to ongoing collaboration as we work to build a sustainable future for plastics.

Sincerely,



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