



Submission on Regulations Amending the Single-use Plastics Prohibition Regulations as published for public comment in

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Subject

Submission on proposed amendments to the Single-Use Plastics Prohibition Regulations

Dear Mr. Watkinson and Mr. LeBrun,

Thank you for the opportunity to provide comments on the proposed amendments to the Single-use Plastics Prohibition Regulations, which would lift the prohibition on the manufacture and export of certain single-use plastic items.

This submission expresses concern that the proposed amendment would weaken the effectiveness, internal coherence, and long-term credibility of Canada's plastics regulatory framework under the Canadian Environmental Protection Act (CEPA). At a time when scientific evidence and recent jurisprudence, including the Federal Court of Appeal's decision upholding the listing of plastic-manufactured items as toxic under CEPA, support a preventive, lifecycle-based approach to plastic pollution, removing the export prohibition risks undermining core principles of pollution prevention, accountability, and environmental justice. To ensure that Canada fulfills its initial obligations to promote zero plastic waste, our country should maintain the prohibition on SUP to avoid placing other jurisdictions in situations where they have to deal with the problems associated with SUP plastics' impacts on the environment and health. Canada would be compromising global environmental health by transferring responsibility for adequately managing and preventing SUP impacts under the guise of supporting economic benefits for plastic-producing companies.

Export exemptions undermine a lifecycle-based approach to toxic substances

Canada has recognized that plastic pollution harms across the full lifecycle of plastic products—from the extraction of fossil feedstocks and polymer production to manufacturing, transport, use, and disposal. The Federal Court of Appeal has affirmed that CEPA is intended to address such risks through preventive control measures, including class-based regulation and targeted prohibitions where environmental harm has been established.

Allowing the continued manufacture of prohibited single-use plastic items for export contradicts this lifecycle logic. Even when such products are not placed on the Canadian market, their manufacture in Canada generates domestic environmental and health impacts, including air emissions, wastewater contamination, pellet loss, and occupational exposures. These impacts occur regardless of the product's destination and cannot be mitigated by export.

Exempting export-oriented production from prohibitions fragments the lifecycle approach that underpins CEPA and weakens the integrity of the control measures adopted to address identified environmental risks.

Plastic pollution is inherently transboundary

Plastic pollution does not respect national borders. Single-use plastic items manufactured in Canada and exported abroad may ultimately re-enter Canadian ecosystems through shared waterways, ocean currents, or atmospheric transport.

From an environmental protection perspective, allowing the export of products identified as environmentally harmful undermines the stated objective of preventing plastic pollution. The Federal Court of Appeal recognized that CEPA may address diffuse and cumulative environmental risks, including where harm is not confined to a single jurisdiction. Canada's responsibility, therefore, does not end at its border when the environmental risks associated with these products are global, cumulative, and well documented.

Canada, itself, continues to receive SUP through imports of various products and food items, much of which cannot be fully recycled or are being designated for use as alternative fuel. This approach continues to place a significant strain on our environment. Canada's proposal to lift exemptions of export for SUP will undoubtedly place economic strain and burden on other jurisdictions, and for some who may not have the capacity to manage SUP will add environment health burdens.

Consistency with CEPA s. 2 and the right to a healthy environment

The proposed amendment raises concerns in relation to section 2 of CEPA, which affirms the right to a healthy environment and requires the Government of Canada to apply the principles of precaution, environmental justice, and non-regression in administering the Act.

Removing an existing prohibition on the export of single-use plastic items—after those items have been identified as posing environmental risks and selected as appropriate targets for control measures—constitutes a weakening of environmental protection rather than a refinement. Such regulatory backsliding is difficult to reconcile with the principle of non-regression, particularly where regulated parties were given advance notice and transition periods to comply. A CEPA-consistent approach, aligned with the preventive purpose affirmed by the Court, would prioritize maintaining or strengthening controls on harmful products rather than narrowing their scope in response to delayed or incomplete compliance.

Global justice and equity implications

Allowing the continued manufacture and export of prohibited single-use plastic items also raises serious concerns about global environmental justice. Many destination countries for Canadian plastic exports lack adequate waste management infrastructure, recycling capacity, and environmental enforcement mechanisms. As a result, exported single-use plastics are more likely to be openly burned, dumped, or discharged into waterways.

In practice, the proposed amendment risks shifting the environmental and health burdens of plastic pollution from Canada to communities that are least equipped to manage them. This outcome is inconsistent with CEPA's emphasis on environmental justice and pollution prevention and risks externalizing harm rather than reducing it at source.

Market fairness and regulatory credibility

Evidence indicates that a significant share of manufacturers complied in good faith with the Single-Use Plastics Prohibition Regulations and invested in transitioning away from prohibited products, including for export markets. Retrospectively eliminating the export prohibition disadvantages these actors while rewarding non-compliance.

This creates a perverse incentive structure, signalling that delayed compliance may ultimately be met with regulatory retreat. Such signals undermine confidence in CEPA as a stable and credible framework for environmental protection and discourage early action in response to future regulatory measures.

Alignment with Canada's global plastics leadership

Canada has positioned itself as a supporter of ambitious global action on plastic pollution, including through ongoing international negotiations toward a global plastics agreement. Maintaining strong domestic controls—including export controls—would reinforce Canada's credibility in advocating for upstream plastic reduction measures internationally.

Rather than lifting the export prohibition, Canada could use this moment to engage trading partners on coordinated phase-out timelines, strengthen transparency regarding export-related environmental impacts, and align domestic regulation with its international leadership ambitions.

Recommendations

Considering the above, we recommend that the Government of Canada:

- Not support the removal of the export prohibition of SUP in the Single-use Plastics Prohibition Regulations. Retain the export prohibition for the listed single-use plastic items and, if necessary, adjust implementation timelines rather than eliminate the measure entirely.
- Assess and disclose the domestic environmental impacts of manufacturing single-use plastics for export, including emissions, wastewater, and pellet loss.
- Apply the principle of non-regression when amending CEPA regulations, particularly for substances and products identified as harmful.
- Strengthen and expand the Single-Use Plastics Prohibition Regulations to address loopholes and substitute products with similar environmental impacts.
- Ensure regulatory predictability through strong enforcement mechanisms and fairness by

- upholding obligations placed on regulated parties after adequate transition periods.
- Ensure public reporting on companies that are non-compliant with the regulations.

We appreciate the opportunity to provide input on this proposal and would welcome further dialogue on how Canada can maintain a strong, coherent, and forward-looking approach to plastics regulation consistent with CEPA's objectives, its jurisprudence, and Canada's environmental commitments.

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About our organizations:

Health and Environmental Justice Support (HEJSupport): an international non-governmental organization operating at the policy level to promote a healthy environment and achieve environmental justice worldwide. HEJSupport prioritizes initiatives that aim at protecting health and the environment in communities affected by chemical pollution and related degradation. It provides long-term technical, policy, legal, and informational support to environmentally disadvantaged groups so that their voices are heard, and solutions to their problems are sought.

Canadian Environmental Law Association (CELA): CELA is a specialty clinic funded by Legal Aid Ontario, with a primary focus to assist and empower low-income people and disadvantaged communities on environmental matters. CELA works toward protecting public health and the environment by seeking justice for those harmed by pollution or poor decision-making and by changing policies to prevent problems in the first place. Since 1970, CELA has used legal tools, conducted public legal education, undertaken groundbreaking research, and advocated for increased environmental protection and to safeguard communities. CELA has two key priority areas: Access to Environmental Justice and Pollution Prevention and Public Health and Safety.