

Review of the Clean BC's Plastics Action Plan by: Ocean Legacy Foundation

Ocean Legacy Foundation (OLF) is an internationally recognized, BC-based, non-profit organization working to identify, clean-up, and prevent marine plastic waste. OLF applauds the release of Clean BC's Plastics Action Plan (Action Plan) as a needed and important first step towards improving the 'wise use' of plastics in BC, including efforts to prevent and clean-up plastic waste that has been littered or otherwise disposed of inappropriately. OLF witnesses the consequence of mismanaged plastic waste everyday. In 2019, we collected thousands of pounds of waste plastics from local and remote BC shorelines. Many of the items we collect include those that are targeted for management under BC's regulated extended producer responsibility (EPR) programs, such as:

- oil containers
- tires
- fridges and appliances
- polystyrene packaging (e.g., meat trays)
- junk food wrappers
- laundry detergent and bleach bottles
- milk containers and their caps
- deposit return system beverage containers and their caps

We also find a huge array of non-EPR materials, such as:

- packaging generated by the industrial, commercial and institutional (IC&I) sector (e.g., fast food containers, coffee and drink cups);
- packaging-like products (e.g., Ziploc bags);
- marine fishing gear (e.g., nets, rope, oyster trays, foam floats, and plastic barrels); and
- single-use products (e.g., cigarette butts, straws, plastics cutlery, film plastic, tampon applicators and gun shells).

Littered and dumped plastic waste is not only an aesthetic nuisance, it harms and kills wildlife (like seabirds, whales, and turtles) through entanglement and ingestion, and it breaks down overtime into microplastics that end up in our drinking water and food. Better management of this material is needed to prevent harmful effects. Most marine plastics originate from the mismanagement of land-based sources, and 75% of this comes from uncollected waste or litter¹.

As a first step towards getting at the root causes of marine plastic littering, in June 2019, OLF released our Missing Millions report², which called on the BC government to modernize its deposit return system for beverage containers. In that report, we showed BC is 'losing' (to litter or landfill) more than a million containers a day and countless millions of bottle caps each year. BC's system, if effective, would prevent and clean up the 'Missing Millions' of beverage containers and caps being littered on BC shores, streets and lost as waste. In our report, we presented five common sense solutions that would help BC improve and modernize its system and reduce beverage container litter:

¹ Ocean Conservancy, 2015. Stemming the Tide: Land-based strategies for a plastic-free ocean. Available at: <https://oceanconservancy.org/wp-content/uploads/2017/04/full-report-stemming-the.pdf>. Retrieved: February 8, 2019.

² Ocean Legacy Foundation, 2019. British Columbia's Beverage Container Legacy: The Missing Millions. Available at: <https://oceanlegacy.ca/missing-millions/>. Retrieved September 13, 2019.

1. Increase the regulated deposit rate;
2. Add all beverage containers to the deposit return system;
3. Require producers to collect and report on the recycling of bottle caps;
4. Raise regulated targets to at least that achieved by Alberta and Saskatchewan, with long-term targets matching the EU; and
5. Enforce the regulated targets in a meaningful way.

We are heartened to see Clean BC is considering adopting many of our recommendations in its Action Plan. However, we believe the plan could be strengthened to ensure even better results. Below, we offer recommendations for improvement on a ‘solution by solution’ basis. We would be happy to discuss any of these more fully to help Clean BC make an informed decision.

1. Establishing Bans on Single-Use Plastics

OLF supports the implementation of both sales and disposal bans on problematic, non-recyclable, single-use plastics (SUPs). Year over year, SUPs make up 10 of the 12 most common items littered on Canadian shores, including cigarette butts, tiny plastics/foam, food wrappers, bottle caps, plastic bags, plastic bottles, straws, other packaging, foam and plastic lined coffee cups³. **Sales bans** are an effective tool to encourage consumers to use reusable alternatives and to push companies towards environmentally preferable product designs. Many problem SUP items could be eliminated or redesigned to prevent waste: e.g., coffee cups, plastic bags, straws, food wrappers. In fact, leading companies in Europe are already choosing to redesign their products and packaging on the heels of the EU’s recently announced single-use plastics directive, and they are doing this in advance of the directive taking effect^{4,5,6}. Likewise, **disposal bans** are also an effective tool to direct waste to established diversion systems. Nova Scotia and Prince Edward Island each successfully implemented disposal bans more than a decade ago; Nova Scotia has the lowest disposal rate in Canada (Figure 1). However, OLF encourages the government to go further:

Recommendation 1: Apply sales bans to any SUPs that are not fully recyclable and any EPR regulated materials that are not collected and fully recycled by stewardship program operators (e.g., any products, packaging, or caps not ‘accepted’ by Recycle BC).

Recommendation 2: Apply disposal bans to all EPR regulated materials (including their container caps and labels) and to all recyclable plastics (e.g., polystyrene). Enforce the bans at the landfill gate (i.e., including on residual material exiting material recycling facilities) to encourage effective processing.)

Recommendation 3: Develop a permanent annual innovators’ fund to encourage new recycling innovation for hard to recycle ocean plastics (e.g., beach generated foam).

Why? First, BC’s Recycling Regulation is flawed in that it allows EPR regulated materials to go uncollected and disposed. Producer responsibility organizations (PROs) are allowed to achieve a group collection target of 75% for a basket of materials. This enables PROs to selectively choose which regulated materials they will collect (out of the basket of regulated materials) to achieve the target. This

³ Great Canadian Shoreline Cleanup, 2018. The dirty dozen, 2018. Available at: <https://www.shorelinecleanup.ca/impact-visualized-data>. Retrieved September 13, 2019.

⁴ Ellen MacArthur Foundation, n.d. Redesigning Plastics. Available at: <https://www.ellenmacarthurfoundation.org/assets/downloads/Redesigning-Plastics.pdf>. Retrieved: September 13, 2019.

⁵ Bloomberg, July 2, 2019. Nestle Wraps Yes Bar in Paper as It Seeks to Cut Plastic Waste. Available at: <https://www.bloomberg.com/news/articles/2019-07-02/nestle-wraps-yes-bar-in-paper-as-it-seeks-to-cut-plastic-waste>. Retrieved: September 13, 2019.

⁶ European Commission, 2019. Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0904&from=EN>. Retrieved: September 13, 2019.

has enabled some producers to choose (without any consequence) to sell/import EPR regulated products and packaging that cannot be recycled. This ability for producers to avoid full producer responsibility for all regulated materials is contrary to the intent of EPR law and it creates system-wide collection gaps that have resulted in substantial litter and dumping. Sales bans would close this gap.

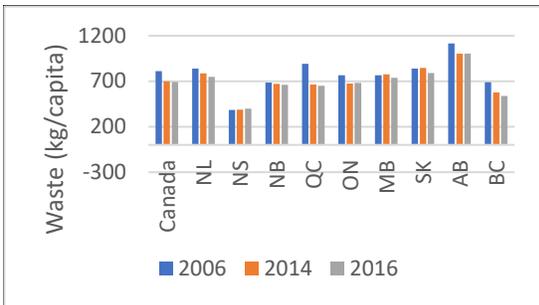


Figure 1: Waste disposal per capita



Figure 2: Crab float collected on BC shorelines

Second, it's clear that tools like disposal bans are needed to drive the recycling of both EPR and recyclable non-EPR materials. For example, until early September 2019, OLF worked with Foam Only to upcycle polystyrene litter collected from shoreline cleanups. This company was unique in that it had the technology to cost-effectively manage 'beach foam', which has high sand, salt, and water content. The company has had to close because it could not access enough foam feedstock to maintain its operations. OLF must now send this recyclable material to landfill or sign long-term costly contracts with other recyclers that are not feasible with its current funding. Disposal bans coupled with an innovators' fund would go a long way to helping investors have the confidence to develop and grow new recycling technologies and systems.

2. Expanding EPR to packaging-like products and single-use items.

OLF supports expanding EPR to packaging-like products and all fully recyclable SUP items that are not subject to a sales ban, as long as producers are required to take meaningful action to prevent and recover litter because these materials make up a large component of shoreline litter. In addition, OLF encourages the government to go further:

Recommendation 4: Extend EPR to marine fishing gear and require it to be tagged for identification purposes. In conjunction with EPR, work with the federal government to implement a strategy for funding and managing abandoned and legacy fishing gear.

Why? Dumped marine fishing gear is a significant global issue and BC is not doing its part to manage to reduce its impacts. The European Parliament notes that 27% of marine litter is fishing-related items⁷. As a result, the EU passed two laws that enable better management of fishing gear:

- Regulation (EC) No 1224/2009⁸, which requires all fishing gear to be 'marked'; and
- Directive (EU) 2019/904, which requires better management of SUPs and plastic fishing gear.

⁷ European Commission, 2019. Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment. P.155/2. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0904&from=EN>. Retrieved: September 13, 2019.

⁸ European Commission, 2009. COUNCIL REGULATION (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy. Available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:343:0001:0050:EN:PDF>. Retrieved September 19, 2019.

BC should follow the EU's lead by requiring marking and EPR for all plastic marine fishing gear. This solution is not out of reach: some BC marine fishing gear is already marked (see Figure 2) and much of the material is recyclable (e.g., OLF is engineering and producing in-house equipment to process oyster trays, rope and netting). However, establishing an EPR requirement on a 'go-forward basis' likely won't be sufficient to manage ghost gear and its resultant microplastics in various stages of decay. As a result, OLF recommends government include a strategy to fund the collection of legacy equipment and gear.

Recommendation 5: Set strong EPR targets and enforce those targets in a meaningful way:

- Require producers to cleanup an amount of litter (e.g., fragmented plastic container debris) equal to that 'lost' from their programs;
- Require individual producers to achieve regulated targets to prevent multi-producer PROs from choosing not to manage select sub-categories of regulated materials; and
- Require producers to manage littered program-like materials and SUPs, regardless of "proof of origin" if collected in BC (e.g., unlabelled beverage containers, oil containers, tires).

Why? BC's Recycling Regulation is flawed: 1) producers face no meaningful consequences for failing to meet or exceed regulated targets, 2) producers are legally allowed to amass surplus funds collected from consumers (e.g., unredeemed deposits, eco-fees) to keep their recycling costs low, and 3) this provides PROs with a perverse incentive to collect no more material than is necessary to meet a regulated target and to refuse to collect materials that are more expensive to manage (e.g., littered / dumped materials).

This flaw is apparent. In 2019, OLF approached several PROs seeking assistance to fund the collection and recycling of EPR materials littered on BC shorelines. The PROs declined. OLF was told:

1. The materials could not be verified as BC-generated [e.g., unlabelled beverage containers (see Figure 3) and fragmented pieces of regulated products];
2. The materials were not in sufficient condition to be recycled [e.g., tires were foam filled or too contaminated (Figure 4)]; and
3. There is more value in funding better collection systems than litter clean-ups.

PROs' unwillingness to steward littered material frustrates the public interest. The purpose of EPR is to establish legal responsibility for producers to manage their materials at end-of-life. Yet, PROs are legally able to avoid responsibility for any materials their programs fail to collect. This is a loophole in the intended application of the polluter pays principle of EPR. For example, in 2018 Encorp collected \$18.2 million in unredeemed deposits⁹ (which is rightfully consumer money) and this amount equates to the number of containers 'lost' through littering and disposal. Encorp used these funds to offset its program costs. This ability for PROs to keep consumer-generated funds to offset program costs is a perverse incentive for PROs to keep return rates low. If government intends to encourage high performing programs, then it must close this loophole by requiring true 'full EPR' for regulated materials, including responsibility for stewarding materials that are littered, dumped and disposed. There is precedent for extending EPR to litter and disposed materials. In 2019, the European Parliament established an SUP directive that requires producers to pay the full costs of managing their materials regardless of whether those materials are deposited at official collection sites, public collection systems, or as litter¹⁰.

⁹ Encorp Pacific, 2018. Annual Report. Available at: <https://www.return-it.ca/about/annualreports/>. Retrieved September 13, 2019

¹⁰ European Commission, 2019. Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0904&from=EN>. Retrieved: September 6, 2019.



Figure 3: Beverage containers collected by OLF on BC shorelines in 2019.



Figure 4: Foam filled tires collected by OLF on BC shorelines in 2019.

3. Expanding the recovery and recycling of beverage containers.

OLF supports expanding the deposit return system to all beverage containers to ensure maximum incentive for their collection, and we support changes to the system that improve consumer convenience. However, we are disappointed in the proposal to apply a flat 10-cent deposit on all containers. As a result, OLF recommends the government:

Recommendation 6: Set a minimum 15-cent flat rate deposit, set a 90% minimum collection target, and increase the deposit within two years if that target is not met.

Why? Evidence in Alberta, Saskatchewan, and Oregon suggests a 10-cent deposit would at best achieve an 85-88% return rate^{11,12,13}. Clean BC confirms it only expects a 10-cent deposit to divert another 50 million containers, which equates to an anticipated return rate of 85%. This goal seems unambitious: more than 200 million containers would continue to go missing each year from Encorp's program alone¹⁴ while EU countries achieve return rates of above 90% (see OLF's Missing Millions report¹⁵).

4. Supporting national recycled content performance standards.

OLF supports establishing national recycling standards, including requiring recycled content in products and packaging as a means to drive demand for recycled materials and encourage recycling technology investment. However, OLF recommends the BC government go further by working towards:

Recommendation 7: Harmonizing EPR programs nationally and establishing Canada-wide standards that restrict the sale/import/use of EPR regulated materials that cannot ultimately be recycled.

Why? Materials that cannot be reused or recycled will become waste. This requirement would force producers to consider end-of-life management in their product and packaging design and ensure that infrastructure is in place to collect their material before it becomes waste.

Overall, OLF supports Clean BC's Plastics Action Plan and believes it will result in important changes in policy that will reduce marine plastics. We would be happy to discuss any ideas presented above.

¹¹ Beverage Container Management Board, 2018. Annual report. Available at:

https://www.bcmb.ab.ca/uploads/source/Annual_Reports/2019.06.05.BCMB.2018.Annual.Report.Web.Version.pdf. Retrieved: September 13, 2019.

¹² SARCAN, 2018. Annual report. Available at: https://issuu.com/sarcsarcancan/docs/annual_report_2019_-_final_-_online. Retrieved: September 13, 2019.

¹³ Oregon Beverage Recycling Cooperative. Available at: <https://www.obrc.com/Content/Reports/OBRC%20Annual%20Report%202018.PDF>. Retrieved: September 14, 2019.

¹⁴ In 2018, Encorp producers sold 1,350,852,403 containers. If Encorp had achieved an 85% return rate, as Clean BC's target suggests, more than 202 million containers would still have gone missing from Encorp's program alone.

¹⁵ Ocean Legacy Foundation, 2019. British Columbia's Beverage Container Legacy: The Missing Millions. Available at: <https://oceanlegacy.ca/missing-millions/>. Retrieved September 13, 2019.