



September 30, 2024

Plastics Regulatory Affairs Division
Environment and Climate Change Canada
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VIA Email: RFP-FPR@ec.gc.ca

Re: Consultation – Federal Plastics Registry – Draft Guidance Document

On behalf of the Canadian Toy Association and the U.S. Toy Association we are writing in response to the draft guidance document for the Federal Plastics Registry (FPR) issued on August 8, 2024. We appreciate the opportunity to comment and thank ECCC for granting an extension to the original submission deadline (Email from ECCC to The Toy Association on August 30, 2024).

As we have detailed to ECCC during previous consultations on the FPR (Submission May 18, 2023; Submission October 7, 2022), the toy industry is supportive of the government's commitment to mitigate plastic pollution and bolster Canada's extended producer responsibility programs. At the same time, we want to ensure the government can implement an effective policy that will achieve their regulatory goals, while mitigating unforeseen economic and business administration burdens.

As background, the Canadian Toy Association (CTA) has over 100 members consisting of manufacturers, importers and distributors of toys generating over \$2 billion in Canadian toy sales. Most CTA members are small and medium enterprises operating across Canada. The Toy Association in the U.S. is also a not-for-profit trade association for producers and importers of toys and youth entertainment products sold in North America. It represents over 900 businesses – including toy designers, inventors, manufacturers, importers, retailers, and testing laboratories – that operate and sell toys internationally. The toy sector is a global industry of more than US\$ 90 billion annually, and our members account for more than half this amount. The CTA and The Toy Association work very closely together and safety is our number one priority.

The release of the draft guidance for the FPR has provided some clarity on how the program will be applied; however, there are still concerns in the scope of key definitions. We believe most of the issues could be address with modest amendments to the guidance document. We have broken out our comments as follows:

- **Definitions:** The toy industry is concerned how ECCC has structured the product categories in their product definitions in the Section 46 Notice as well as the draft guidance. As we have already communicated to ECCC, the department abruptly changed its definition of “toy” from its first draft without any notice or explanation. In turn, ECCC has

incorporated an outdated definition from BC that will not serve the objective for the new plastics registry. A core concern is that video games and equipment are simply by definition not a “toy”, nor have these product categories been successfully combined with any traditional EPR model. It is also important to note that Canadian and international regulators have separate and strict regulatory controls between “toys” and video games/equipment, each of which are governed by clear definitions. For example, toys are traditionally defined as follows:

Health Canada Toy Regulations	US Consumer Product Safety Commission (CPSC)	EU Toy Safety Directive
The Toys Regulations define a toy as: "a product that is intended for use by a child under 14 years of age in learning or play."	A “toy” is defined as any object designed, manufactured, or marketed as a plaything for children under 14 years of age	EU Toy Safety Regulation, clearly define a toy to include all products designed or intended for use in play by children under 14 years of age.

These definitions and the approach set by regulators intentionally exclude video games, gaming equipment and consoles. For EPR regimes in the management of EEE goods, provinces and territories have also intentionally divided out these two product categories. The Electronic Products Recycling Association has provided a detailed account of each product category across Canada, which clearly demark the two categories¹.

Despite the clear differences in these product categories, ECCC’s definition includes “...*video games and video gaming equipment and consoles*.” In addition to this irregularity, the Section 46 Notice also adds further confusion as the definition of a “novelty item” also includes that of a “toy”.

Our industry takes its stewardship commitments very seriously and our members have become industry leaders in plastic waste reduction. For years, many toy companies have been actively working to be more environmentally conscious with their products, whether it be with the toy product itself, the packaging, the manufacturing process, or the supply chain for sourcing material and distributing the product. We are very concerned that this irregular definition of a “toy” will lead to misunderstandings and misrepresentation of data being developed under the new plastic registry. Effectively, this blurred product category in the notice will create an inaccurate benchmark to gauge for future product stewardship controls.

Even though toys comprise less than 1 percent of the typical household waste stream, our industry strongly believes in strengthening waste management systems, but we believe that must be made through a regulatory system that is clearly defined to ensure effective compliance and implementation.

¹ Electronic Products Recycling Association – September 2024 Steward Update Notice – Website: <https://epra.ca/wp-content/uploads/2024/09/English-national-newsletter-September-3-2024-Binder.pdf>

Recognizing the limitations ECCC may now have in correctly adjusting its definitions for the FPR, we ask that it consider structuring the online reporting platform to include a subcategory that further divides out a traditional regulated “toy” from that of video games and electronic gaming equipment. Making this distinction will enable ECCC to secure far more accurate information under its registry and facilitate more efficient rule making efforts in the future.

- **Proposed Timeline for Compliance:** We are concerned that ECCC may not fully appreciate the scale of business impact the FPR will have for a product manufacturer and importer. Although the reporting obligations start in 2025, the expectation appears to be that industry will have already started collecting the data now before the reporting obligation starts. Setting up the mechanism and internal protocols to comply with this new reporting requirement takes time. It requires new internal resources, staff, and technology to properly comply with these new data collection expectations.

Additionally, it is likely that many companies may not yet have a clear line of sight on the volume of plastic resin data which ECCC is requesting. Effectively, data from 2024 will be difficult to secure amongst suppliers and other partners as many are not aware of ECCC’s expectations. Industry has only just started to sensitize itself to these requirements let alone communicate with upstream partners. This type of communication takes time, as also illustrated by the fact that ECCC has yet to issue the proposed letter from the Government of Canada that can be shared with suppliers.

Simply put, this is a complicated system that ECCC has set up and companies do not yet have the resources or mechanisms in place to fully comply with the new reporting expectations. Our members strive to be as thorough and as efficient as possible, but this is a new procedure being set by ECCC and involves a complex model for reporting. We strongly encourage ECCC to reconsider the proposed approach and adjust their reporting year to begin with data from 2025. Otherwise, the data collection will be irregular and ultimately ineffective to meet the policy objective being set by ECCC.

- **No Direct Consultation or Engagement on Change:** Regrettably, we do not believe ECCC provided sufficient notice or consultation on the changes it made to its definitions under the FPR. ECCC’s original Notice of Intent to implement the FPR,² had correctly excluded video games from its definition of “toys”. The December 30, 2023 notice states:
 - “toys” - includes any toy, game, or other article designed, labelled, advertised, or otherwise intended for use by children and that is intended to be powered by electrical current from nominal 120 volt (110–125 v.) branch circuits. If the package (including packing materials) of the toy or other article is intended to be used with the product, it is considered to be part of the toy or other article. This definition does not include components that are powered by circuits of 30 volts root mean square (42.4 volts peak) or less, articles designed primarily for use by adults that may be used incidentally by children, or video games.

² Canada Gazette Part 1, Volume 157, Number 52 – December 30, 2023 – Website: <https://www.gazette.gc.ca/rp-pr/p1/2023/2023-12-30/html/notice-avis-eng.html#na3>

However, without any notice, advisement, or engagement with the impacted industry stakeholders, ECCC changed the definition within the FPR. We recognize modest edits and changes to definitions should be expected, but the scale of change to the definitions was significant. It now reads:

- "toy" includes, without limitation, electronic or electrical trains, car racing sets, cars and trucks, including remote control and ride on toys, video games and video gaming equipment and consoles.

As we have detailed above, this is a significant and consequential change and without notification it is likely that businesses who were aware of the scope and definitions from the December 2023 notice could miss this and not be able to prepare accordingly for the reporting obligation. The implications for our industry on the inclusion of video game and video game equipment are concerning as it will trigger confusion and misrepresent the scale of waste within the product sector. Further, it will incorrectly skew the statistical reality of plastic EEE waste for these product categories and lessen the value of the data, undermining ECCC's policy objectives.

We appreciate your consideration of our comments. It is also important to note that our members are still actively reviewing the specifics of the guidance document provided. Recognizing the complexity of this reporting system, they have had to proactively consult with their internal compliance teams and where possible, direct suppliers. Although we appreciate the extension received for the due date to meet ECCC's deadline, we anticipate additional input from our members will be provided in the weeks ahead after they have had the opportunity to fully assess ECCC's proposed reporting structure. We hope ECCC will still be open to receiving additional input from impacted stakeholders in the weeks and months ahead.

As mentioned earlier, the toy industry is supportive of the government's working efforts to mitigate plastic waste and enhance Canada's stewardship practices, and we look forward to working with ECCC to achieve these goals. We hope our observations will help support ECCC in improving the role out of its reporting portal for the plastic registry. As ECCC reviews the feedback, please do not hesitate to contact us if you have any questions about our comments.

Yours sincerely,



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