

EPA Releases Draft National Strategy to Prevent Plastic Pollution

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On May 2, 2023, the U.S. Environmental Protection Agency (EPA) announced the release of the [Draft National Strategy to Prevent Plastic Pollution](#) (Draft Strategy) for public comment. [88 Fed. Reg. 27502](#). EPA states in its April 21, 2023, [press release](#) that the Draft Strategy includes “ambitious actions to eliminate the release of plastic and other waste from land-based sources into the environment by **2040**.” EPA released the Draft Strategy alongside a new White House Interagency Policy Committee (IPC) on Plastic Pollution and a Circular Economy. The IPC will coordinate federal efforts on plastic pollution, prioritizing public health, economic development, environmental justice, and equity to ensure that the benefits of acting on plastic pollution -- including jobs, minimized exposure to harmful chemicals, and clean communities -- are available to all. EPA will host a webinar on **May 11, 2023**, to provide an overview of the draft strategy and the key questions on which EPA seeks comment. [Registration](#) for the webinar is open. Comments on the Draft Strategy are due **June 16, 2023**.

Summary of the Draft Strategy

EPA states that it worked closely with industry leaders and additional stakeholders to identify three key objectives for the Draft Strategy. According to EPA, the proposed actions under each objective support the “United States’ shift to a circular approach that is restorative or regenerative by design, enables resources to maintain their highest value for as long as possible, and aims to eliminate waste in the management of plastic products.”

- Objective A: Reduce pollution during plastic production:
 - Reduce the production and consumption of single-use, unrecyclable, or frequently littered plastic products; and
 - Minimize pollution across the life cycle of plastic products;
- Objective B: Improve post-use materials management:
 - Conduct a study of the effectiveness of existing public policies and incentives upon the reuse, collection, recycling, and conservation of materials;

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- Develop or expand capacity to maximize the reuse of materials;
 - Facilitate more effective composting and degradation of certified compostable products;
 - Increase solid waste collection and ensure that solid waste management does not adversely impact communities, including those overburdened by pollution;
 - Increase public understanding of the impact of plastic mismanagement and how to manage appropriately plastic products and other waste; and
 - Explore possible ratification of the Basel Convention and encourage environmentally sound management of scrap and recyclables traded with other countries;
- Objective C: Prevent trash and micro/nanoplastics from entering waterways and remove escaped trash from the environment.
 - Identify and implement policies, programs, technical assistance, and compliance assurance actions that effectively prevent trash/micro/nanoplastics from getting into waterways or remove such waste from waterways once it is there;
 - Improve water management to increase trash capture in waterways and stormwater/wastewater systems;
 - Increase and improve measurement of trash loadings into waterways to inform management interventions;
 - Increase public awareness of the impacts of plastic products and other types of trash in waterways; and
 - Increase and coordinate research on micro/nanoplastics in waterways and oceans.

The draft “National Strategy to Prevent Plastic Pollution,” together with EPA’s “National Recycling Strategy,” identifies how EPA can work collaboratively with U.S. organizations to prevent plastic pollution and reduce, reuse, recycle, and capture plastic and other waste from land-based sources. These actions support a circular approach to the management of plastics -- one that is regenerative by design, enables resources to maintain their highest value for as long as possible, and aims for the elimination of waste.

EPA notes that it is posting its public comments on the Federal Trade Commission’s (FTC) request for comment on potential updates to its [Guides for the Use of Environmental Marketing Claims](#) (Green Guides). EPA states that marketing claims include recyclable, compostable, renewable energy, and general environmental benefit claims, among others. EPA “supports strengthening requirements for environmental marketing claims and combating greenwashing, including requiring higher thresholds for plastic products and packaging to be marketed as recyclable.” More information on FTC’s potential updates to the Green Guides is available in our December 16, 2022, [memorandum](#), and information on FTC’s **May 23, 2023**, workshop on recyclable claims and the Green Guides is available in our March 1, 2023, [blog item](#).

Key Questions in the Draft Strategy

EPA asks the public to consider several key questions when reviewing and commenting on the Draft Strategy:

- Which actions are the most important and would have the greatest positive impact at the local, regional, national, and global levels? Consider:
 - Which actions can best protect human health and environmental quality?
 - Which actions are most important to address environmental justice and climate change?
 - What are the key steps and milestones necessary to implement successfully the actions in the Draft Strategy?
- What are the most important roles and/or actions for federal agencies to lead?
- Is your organization willing to lead an action or collaborate with others to implement the actions?
 - What factors would your organization consider when determining whether to lead an action?
- What are potential unintended consequences of the proposed actions that could impact communities considered overburdened or vulnerable, such as shifts in production or management methods?
- What key metrics and indicators should EPA use to measure progress in reducing plastic and other waste in waterways and oceans?
- What criteria should processes meet to be considered “recycling activities” (e.g., “plastics-to-plastics outputs are ‘recycling’ if these processes reduce the life cycle environmental impacts in comparison to traditional mechanical recycling”)?
- Are there other actions that should be included in the strategy?
 - Should EPA expand the scope of the strategy to include sea-based sources?
 - Should specific types of plastic products be targeted for reduction or reuse in this strategy?
- Do you have any additional information or recommendations for EPA regarding these or other proposed actions in the Draft Strategy?

Commentary

In December 2020, the Save Our Seas 2.0 Act was enacted, which charged EPA with developing a strategy to improve post-consumer materials management and infrastructure to reduce plastic waste.

With the release of this national Draft Strategy, EPA makes good on that requirement and sets the federal government on a 17-year path to eliminate the release of plastic waste and other waste from land-based sources.

Certainly, ending plastic waste is a common goal shared among EPA, non-governmental organizations (NGO), and the U.S. plastics industry. Still, as the saying goes, give them an inch and they'll take a mile. In the Draft Strategy, EPA stretches the legislative intent of "reducing plastic waste" to a Draft Strategy that looks to change the *design* of plastic products, that envisions *fewer* plastic products, and includes goals to *reduce* pollution writ large from U.S. plastic production facilities.

In the Draft Strategy, EPA also confirms that it does not consider activities that convert non-hazardous solid waste to fuels or fuel substitutes (plastics-to-fuel) or for energy production to be "recycling" activities (e.g., pyrolysis), while announcing that EPA intends to require companies submitting new pyrolysis oil chemicals to EPA for review under the Toxic Substances Control Act (TSCA) to conduct testing for impurities that could be present in the new chemical substances prior to approval, and to perform ongoing testing to ensure there is no variability in the plastic waste stream that is used to generate the pyrolysis oil. It is unclear whether these are new policies or whether this is the first articulation of what has been done in practice.

Finally, the establishment of an IPC to develop and implement broad plastic waste policy, with apparently no limits to its scope and without mention of stakeholder involvement, raises further concerns.

As a result, there will be hard questions about the far-reaching scope of the national strategy, the feasibility of implementing such a broad strategy, the risks of potentially pushing plastic manufacturing overseas, where there are less stringent environment standards, partisan debate about embedded policy decisions such as what a "recycling" activity is and the role of chemical recycling, and an interagency advisory committee of political appointees that will make broad decisions about plastic manufacturing under the guise of eliminating plastic waste without clear transparency. The potential for a final national strategy more focused on anti-plastic policy than plastic waste elimination seems high.

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National Law Review, Volume XIII, Number 122

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