

Sustainability Update: NGO and International Efforts to Regulate Plastic

Article By:

J. Michael Showalter

Alex Garel-Frantzen

Everyone loves recycling. However, when it comes to plastic, questions about how recycling occurs and whether it can meaningfully occur generate a fair amount of controversy.

Take, for example, the New York attorney general's **recent lawsuit** against a food and beverage company. In a first-of-its-kind case, the suit seeks to hold the company liable under a state nuisance theory for contaminating the Buffalo River and public drinking water sources with its plastic packaging. The complaint includes photos

of the plastic pollution and its impact on wildlife.

It has been six months since we last wrote about the **war on plastic**. We write now because plastic recycling is in the news for two related reasons:

First, November 15 is America Recycles Day. A White House **Proclamation in honor of America Recycles Day** celebrates both the efforts of people who recycle and the “significant” efforts the Biden Administration has undertaken to promote recycling.

Second, plastic issues are on the agenda for meetings in Nairobi, Kenya, where government delegations discussed the development of an international treaty focused on plastics.

Building on the Kenya meetings, a group of 240 nongovernmental organizations (NGOs) sent a **letter** to the Biden Administration seeking action to “address the Plastic Crisis.” Specifically, the NGOs seek “mandatory limits on plastic production” and “full chemical transparency;” an end to government support for plastic disposal methods, including gasification and pyrolysis; and for the federal government to deploy its “purchasing, research, and regulatory power to reduce plastic production, consumption, and disposal.”

In summary, the NGOs highlight various steps the federal government can take to advance these goals. First, they recommend the US’s entry into a “strong global plastics treaty,” and second, they urge the US to discontinue support for “chemical recycling.” We will break down these issues below.

The Controversy Surrounding “Advanced Recycling”

As **defined** by the American Chemistry Council (ACC), “advanced recycling” or “chemical recycling” facilities “typically use pyrolysis or gasification” to break down used plastics into “gaseous or liquid materials that can be used to remake plastics.” In ACC’s view, “advanced recycling” technologies differ from disposal by incineration because “they operate with little/no oxygen, unlike incineration which requires *lots* of oxygen.” ACC also provides a **study** which purports to show that “facilities that use pyrolysis found emissions to be about equal to or lower than those from similar facilities such as food or auto making and institutions such as hospitals and colleges.”

In their letter, the NGOs dispute this premise and argue that pyrolysis facilities should be classified as “incinerators” and that “advanced recycling” facilities have the potential to impact public health, as these facilities can use processes the particulars of which are not public. We discussed these issues in detail **here**.

What’s Happening Internationally?

The **United National (UN) Intergovernmental Negotiating Committee (INC) on Plastic Pollution** was established after the United Nations Environmental Assembly (UNEA) determined in a **March 2022 resolution** that a treaty incorporating a comprehensive approach addressing the full life cycle of plastic, including its production, design, and disposal, is necessary. The Committee is attempting to negotiate a legally binding treaty on plastic pollution by the end of 2024. The aim of the treaty is to help motivate consumers and businesses to shift away from single-use products and toward adopting a life-cycle approach along the value chain. The US’s **submission** to the Committee emphasizes reuse, waste minimization, development of green chemistry, and efforts to strengthen the demand for used plastics as potential paths

forward.

Any treaty that is negotiated would need to be ratified by the US Senate to be incorporated into US law.

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