

PLAN FOR THE BAN: NEW YEAR, NEW CANADIAN PLASTICS REGULATION UPDATE

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Overview

In an effort to achieve zero plastic waste by 2030, the Canadian federal government, along with a number of provincial, territorial and municipal governments have introduced regulations and new mandates over the course of 2022 aimed at reducing waste and pollution from single-use plastics. These regulations and mandates raise a number of important considerations for businesses currently manufacturing, selling or using single-use plastics in their Canadian operations.

This is the seventh bulletin in our “Plan for the Ban” series regarding prohibitions and increased regulation of single-use plastics in Canada.^[1] This bulletin provides an updated summary of the current state of single-use plastics legislation across Canada and the changes and trends businesses can expect to see over the next few years.

Canada (Federal)

Single-use Plastic Prohibition Regulations are Enacted

On June 22, 2022, the federal government published the [Single-use Plastic Prohibition Regulations](#) (“SUPPR”) under the Canadian Environmental Protection Act, 1999 (“CEPA”), which prohibits the manufacture, import and sale of six categories of single-use plastics: (i) checkout bags; (ii) cutlery (includes knives, forks, spoons, sporks and chopsticks); (iii) foodservice ware (limited to clamshell containers, lidded containers, boxes, cups, plates and bowls) made from expanded or extruded polystyrene foam, polyvinyl chloride, carbon black or an oxo-degradable plastic; (iv) ring carriers; (v) stir sticks; and (vi) straws (both straight drinking straws and flexible straws).^[2] To ensure accessibility, the SUPPR permits hospitals, long-term care facilities and other care institutions to sell or provide single-use plastic flexible straws to their patients or residents.^[3] However, this exception does not apply to private foodservice companies operating within such premises, nor does it apply to childcare centres.^[4]

The SUPPR is being implemented in the following phased timeline.^[5] As of the date of this bulletin, the

manufacture and import for sale of certain single-use plastic products in Canada has been implemented.

Item	Manufacture and Import for Sale in Canada	Sale	Manufacture, Import and Sale for Export
Checkout bags, cutlery, foodservice ware, stir sticks, straws*	December 20, 2022	December 20, 2023	December 20, 2025
Ring carriers	June 20, 2023	June 20, 2024	December 20, 2025
Flexible straws packages with beverage containers	Not applicable	June 20, 2024	December 20, 2025
*Single-use plastic flexible straws that are not packaged with beverage containers are excluded under certain conditions.			

To help businesses and organizations transition away from these single-use plastics, the Government of Canada has published a guidance document outlining best practices for selecting alternative products^[6] as well as technical guidelines^[7] about the requirements of the SUPPR. For more information on the SUPPR, please read our bulletin [Plan for the Ban: Canada Announces Timeline for Single-Use Plastics Prohibition](#).

Canada Proposes Plastic Labelling Rules and Federal Plastics Registry

Following the publication of the SUPPR, the Government of Canada published two consultation papers: one on the creation of labelling rules to enhance the accuracy of recyclability and compostability information on plastic packaging and single-use plastics and the other on the introduction of a federal plastics registry requiring plastic producers to report annually on their plastic contribution to the Canadian economy.

The proposed labelling regime would ban the use of the “chasing arrows” symbol (♻️) on plastic items unless at least 80 percent of recycling facilities in Canada would accept and have reliable end markets for those items.^[8] Furthermore, the proposal would introduce rules governing the use of common terms in the labelling of plastic packaging such as “compostable”, “degradable” and “biodegradable”.^[9] Producers of packaging and single-use plastic products would be required to assess their plastic products to determine whether they can be recycled and label them as either recyclable, not recyclable or a combination of both.^[10] In addition, in assessing their plastic items, producers would be required to select a compliance mechanism such as a third-party labelling program, calculator or a guideline.^[11]

The proposed federal plastics registry would require plastics producers to register and report on plastics in the

Canadian economy. This registry would support Canada's extended producer responsibility ("EPR") policy, which aims to improve waste reduction and recycling activities by extending a producer's physical and financial responsibility for a product to the post-consumer stage of its lifecycle.^[12] The categories of products that would be subject to reporting include: (i) packaging, with sub-categories for beverage containers and single-use plastics; (ii) construction plastics; (iii) automotive plastics; (iv) electronics and electrical equipment; (v) textiles, which include clothing, interior textiles (e.g. bedding), and footwear; (vi) major appliances such as ovens and fridges; and (vii) agricultural film.^[13] The reporting obligation under the federal registry would fall on "obligated producers", which depending on the particular jurisdiction's stewardship legislation, is the product's brand owner, or alternatively the manufacturer, importer, distributor or retailer of the product into Canada.^[14]

The federal registry will be implemented in stages, with Phase 1 slated to begin before the end of 2024.^[15] Phase 1 would require producers already subject to EPR programs in provincial and territorial jurisdictions to report on the plastics they placed on the market for packaging and electronics. Reporting obligations for producers of the other categories of plastic products noted above will follow in Phases 2 to 4. Proposed timelines for these subsequent Phases have not yet been announced.^[16]

The two federal consultations were open for stakeholder feedback until October 7, 2022. For more information on the proposed labelling rules and plastics registry, please read our bulletin [Plan for the Ban: Canada Proposes Plastic Labelling Rules and Federal Plastics Registry](#).

Canada Endorses UN Resolution to End Plastic Pollution

On March 2, 2022, officials from Canada and 174 other countries endorsed a resolution at the United Nations Environment Assembly to create a legally binding global treaty to control and reduce plastic pollution and waste.^[17] The resolution, entitled "End Plastic Pollution: Towards an internationally legally binding instrument" (the "**UN Resolution**") establishes an Intergovernmental Negotiating Committee ("**INC**"), which will develop a legally binding instrument on plastic pollution by 2024.^[18] For more information on the UN Resolution, please read our bulletin [Plan for the Ban: Canada Joins UN Countries in World's First Global Plastic Pollution Treaty](#).

Canadian officials attended the first session of the INC, which took place in Punta del Este, Uruguay from November 29 to December 2, 2022.^[19] The second INC session will be a combined plenary and treaty negotiation session and will be held in Paris in May 2023.^[20] Canada's involvement in and support of the treaty negotiation process, as well its ongoing domestic efforts to reduce plastic waste, serve as positive indicators that it will eventually sign, ratify and implement the UN treaty once its terms have been finalized.

Canada Proposes Minimum Recycled Content Requirements for Plastic Items

On February 11, 2022, Environment and Climate Change sought feedback on proposed regulations under CEPA

that would set minimum recycled content requirements for certain plastic manufactured products.^[21] Product categories that would be subject to the requirements include beverage containers, garbage bags, waste bins and non-bottle rigid containers and trays (other than those in direct contact with food).^[22] The proposed regulations would also include requirements for measuring, verifying and reporting recycled content in plastic packaging.^[23] The public engagement period closed on March 14, 2022 and the proposed regulations will be published in the Canada Gazette, Part I, as early as Fall 2023, followed by a public comment period.^[24]

Provinces and Territories

Plastics regulation at the provincial/territorial level generally revolves around stewardship, recycling and waste disposal initiatives. However, there is often some overlap and coordination between the federal and provincial/territorial single-use plastics legislation. The following is a summary of the state of legislation in relation to single-use plastics and plastics more generally at the provincial/territorial level. A discussion of the various provincial/territorial stewardship programs that regulate plastic products and packaging will be the subject of a future bulletin.

British Columbia

On April 22, 2022, the British Columbia Ministry of Environment and Climate Change Strategy (the “MECCS”) published an [Intentions Paper](#) outlining British Columbia’s proposed regulation to reduce single-use plastic waste as part of the CleanBC Plastics Action Plan.^[25] The proposed regulation would ban all plastic checkout bags, require that a fee be charged on paper and new reusable checkout bags, prohibit the automatic distribution of foodservice accessories like single-use straws and cutlery, ban plastic foodservice packaging made from polystyrene foam, PVC or compostable plastic, and ban all packaging made from oxo-degradable plastic.^[26]

The MECCS sought input on the proposed regulation from residents, Indigenous communities, businesses, local governments and organizations, which engagement concluded on July 5, 2022.^[27] The MECCS will use the feedback from the engagement to inform the drafting of the new regulation. The feedback will also be summarized in a What We Heard report, set to be released in early 2023. The proposed regulation is expected to come into effect in spring 2023 and will be implemented in stages.^[28]

Manitoba

The Legislative Assembly of Manitoba had proposed the ambitious [Bill 244](#), which would amend The Waste Reduction and Prevention Act by banning retailers from supplying single-use plastics to consumers and requiring the Minister to create a plan to reduce single-use plastics in Manitoba. Under Bill 244, retailers would be banned from providing plastic checkout bags and plastic drinking straws effective January 2021.

Furthermore, after January 1, 2025, retailers would be banned from offering the following single use plastics to customers: expanded polystyrene foam containers for food or beverages, items made from oxo-degradable or oxo-fragmentable plastics, disposable coffee cups, and plastic water bottles. However, Bill 244 did not proceed past the first reading and there are no comparable bills currently under consideration in Manitoba.[\[29\]](#)

Nova Scotia

On October 30, 2020, Nova Scotia banned all businesses from providing single-use plastic shopping bags, subject to certain exemptions.[\[30\]](#)

Newfoundland and Labrador

Newfoundland and Labrador instituted a ban on retail plastic bags effective October 1, 2020.[\[31\]](#)

Prince Edward Island

Prince Edward Island's [Plastic Bag Reduction Act](#), which came into effect on July 1, 2019, prohibits businesses from providing plastic checkout bags to customers.[\[32\]](#) On December 1, 2022, Bill 79, [An Act to Amend the Plastic Bag Reduction Act](#) received Royal Assent. Bill 79 eliminates the mandatory fee of 15 cents for a paper checkout bag, but retains the minimum one dollar fee for a reusable bag.[\[33\]](#)

Yukon

Yukon's [Reduction of Single-Use Bags Regulation](#) prohibits the supply of new single-use bags. The ban on single-use plastic bags began on January 1, 2022, followed by a ban on single-use paper bags on January 1, 2023.[\[34\]](#) Bags that are exempt from the prohibition include prescription drug bags, take-out food bags and produce bags.[\[35\]](#)

Other Provinces and Territories

Saskatchewan, Québec, New Brunswick, Nunavut and the Northwest Territories have not proposed provincial legislation prohibiting or regulating any single-use plastics. However, the Northwest Territories has instituted a single-use retail bag program that charges a 25 cent fee on every non-reusable paper, plastic or biodegradable bag purchased by a customer.[\[36\]](#)

Municipalities

Local governments across Canada continue to introduce bans on the distribution of certain single-use plastics through municipal by-laws, which do not require provincial approval. For example, Montréal passed a by-law, which will come into effect on March 28, 2023, banning the distribution of eight single-use plastic items including plates and utensils in food service establishments and restaurants.[\[37\]](#) In addition, Vancouver placed

a ban on plastic shopping bags and introduced minimum fees on paper and reusable shopping bags, effective January 1, 2022. Furthermore, under Vancouver's License By-Law No. 4450, minimum fees will increase to 25 cents for paper bags and two dollars for new reusable bags beginning on January 1, 2023.^[38]

The City of Spruce Grove in Alberta passed a by-law banning businesses from providing plastic checkout bags, polystyrene serving ware and plastic straws (with exceptions), which came into effect on January 1, 2022. The City also developed a [toolkit](#) for businesses containing educational material and advice on communicating with customers.^[39] Similarly, Regina passed a by-law prohibiting retail and food service businesses from providing, distributing or selling plastic checkout bags as of February 1, 2022, and published a business [toolkit](#) with promotional materials to educate customers.^[40] Many other Canadian cities have passed by-laws prohibiting certain single-use plastics in 2022 including, but not limited to, Sault Ste. Marie^[41], Chilliwack^[42] and Edmonton^[43].

Planning Ahead for Businesses

As evidenced by the legislative developments over the course of 2022, Canada has commenced the ban of certain single-use plastics and has its sights set on other plastic products for future regulation. There is also a trend across the country toward shifting the operational and financial responsibility of plastics recycling to producers. Existing, pending and future regulations will likely continue to expand over time, resulting in more prohibitions and restrictions on plastics products and packaging. Businesses would therefore be well advised to consider alternatives to single-use plastics manufactured, sold or used in their operations.

[1] Talia Gordner and Cody Foggin, "[Plan for the Ban: Single-Use Plastic Bans are Rolling Out Across Canada – Are You Ready?](#)" (September 2020); Talia Gordner and Cody Foggin, "[Plan for the Ban: Canada Announces Plan to Tackle Single-Use Plastics](#)" (October 2020); Talia Gordner, Julia Loney and Tess Dimroci, "[Plan for the Ban: Our New Year's Update of Single-Use Plastics Bans Across Canada](#)" (January 2021); Talia Gordner, Julia Loney and Ralph Cuervo-Lorens, "[Plan for the Ban: Plastics Classified as "Toxic Substance" Under Canadian Environmental Protection Act](#)" (July 2021); Talia Gordner and Julia Loney, "[Plan for the Ban: Canada Announces Timeline for Single-Use Plastics Prohibition](#)" (June 2022); Talia Gordner, Julia Loney and Ralph Cuervo-Lorens, "[Plan for the Ban: Canada Proposes Plastic Labelling Rules and Federal Plastics Registry](#)" (September 2022).

[2] Government of Canada, "[Single-use Plastics Prohibition Regulations – Overview](#)" (October 19, 2022) [Overview of SUPPR].

[3] Government of Canada, "[Fact sheet: Exceptions for single-use plastic flexible straws](#)" (October 26, 2022) [Exceptions for SUP Flexible Straws].

[4] [Exceptions for SUP Flexible Straws](#).

[5] [Overview of SUPPR](#).

[6] Environment Canada & Climate Change, "[Single-use Plastics Prohibition Regulations – Guidance for](#)

[selecting alternatives](#)” (June 20, 2022).

[7] Environment Canada & Climate Change, “[Single-use Plastics Prohibition Regulations – Technical guidelines](#)” (June 20, 2022).

[8] Environment and Climate Change Canada, Consultation Paper, “[Towards Canada-wide rules to strengthen recycling and composting of plastics through accurate labelling](#)” [Plastics Labelling Consultation Paper] at 3.

[9] *ibid* at 31.

[10] *ibid* at 3.

[11] *ibid* at 3.

[12] Environment and Climate Change Canada, Consultation Paper, “[A proposed federal plastics registry for producers of plastic product](#)” [Federal Plastics Registry Consultation Paper] at 4.

[13] *ibid* at 9.

[14] *ibid* at 13.

[15] *ibid* at 20.

[16] *ibid* at 19.

[17] United Nations Environment Programme, “[Historic day in the campaign to beat plastic pollution: Nations commit to develop a legally binding agreement](#)” (March 2, 2022) [UN Resolution].

[18] UN Resolution.

[19] United Nations Environment Programme, “[First session of Intergovernmental Negotiating Committee to develop an international legally binding instrument on plastic pollution](#)” (December 2, 2022).

[20] International Union for Conservation of Nature, “[Towards an Agreement on Plastic Pollution: INC-1 took place in Uruguay](#)” (December 9, 2022).

[21] Government of Canada, “[Development of Minimum Recycled Content Requirements for plastic items – Overview](#)” (December 15, 2022) [Proposed Minimum Recycled Content Regulations].

[22] *ibid*.

[23] Government of Canada, “Technical issues paper: Recycled content for certain plastic manufactured items Regulations” (February 11, 2022).

[24] *ibid*.

[25] Government of British Columbia, “[Preventing Single-Use and Plastic Waste in British Columbia – Intentions Paper](#)” (April 22, 2022) [BC Intentions Paper].

[26] *ibid* at 10.

[27] Government of British Columbia, “[CleanBC Plastics Action Plan – What is this engagement about?](#)”.

[28] *ibid*.

[29] The Legislative Assembly of Manitoba, [Bill 244: The Waste Reduction And Prevention Amendment Act \(Reducing Single-Use Plastics\)](#).

[30] Government of Nova Scotia, "[Single-use plastic bag ban](#)".

[31] Government of Newfoundland and Labrador, "[Ban on Retail Plastic Bags Coming into Effect in October](#)" (September 2, 2020).

[32] Government of Prince Edward Island, "[Plastic Bag Reduction](#)" (December 14, 2022).

[33] [Bill 79, An Act to Amend the Plastic Bag Reduction Act](#) (December 1, 2022).

[34] Government of Yukon, "[Yukon bag ban](#)".

[35] [Reduction of Single-Use Bags Regulation](#), s. 3.

[36] Government of Northwest Territories, "[Single-use Retail Bag Program](#)".

[37] City of Montréal, "[Single-use plastic: What you need to know about legislation](#)" (December 22, 2022).

[38] City of Vancouver, "[Shopping bags](#)".

[39] City of Spruce Grove, "[Single-Use Items Reduction Bylaw](#)".

[40] City of Regina, "[Plastic Checkout Bag Ban](#)".

[41] City of Sault Ste. Marie, "[Single-Use Plastics](#)".

[42] City of Chilliwack, "[Single-Use Item Reduction Strategy](#)".

[43] City of Edmonton, "[Single-Use Item Reduction](#)".

by [Talia Gordner](#), [Julia Loney](#), [Srinidhi Akkur](#) (Articling Student)

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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