

PLAN FOR THE BAN: NEW CONSULTATION LAUNCHED FOR PLASTICS LABELLING FRAMEWORK AND FEDERAL PLASTICS REGISTRY

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In our last [“Plan for the Ban”](#) bulletin, we discussed the federal government’s consultation regarding proposed labelling rules to enhance the accuracy of recyclability and compostability information on plastic packaging and the establishment of a federal plastics registry requiring plastic producers to report annually on their plastic contribution to the Canadian economy. The federal government has now published a summary of the feedback received during this consultation period as well as two additional consultation papers: one on the regulatory framework for plastic labelling regulations and the other on technical reporting requirements for the federal plastics registry. Stakeholders have until May 18, 2023 to review and provide feedback on both consultation papers.

This is the seventh bulletin in our “Plan for the Ban” series regarding prohibitions and increased regulation of single-use plastics.^[1] This bulletin summarizes the federal government’s report on its most recent consultation regarding the government’s recyclability and compostability labelling and federal plastics registry initiatives. It also discusses the two new open consultation papers.

Feedback from October 2022 Consultation

The consultation period for the plastic labelling rules and plastics registry spanned from July 25 to October 7, 2022 and resulted in 201 written comments from industry, government, and environmentally-focused non-governmental organizations.^[2] The stakeholder feedback centred around implementation, harmonization and addressing concerns about industry inequalities.

Recyclability and Compostability Labelling Consultation

Many stakeholders commented that the proposed 80% threshold for acceptance in collection systems for recyclability labelling was too high. They also commented that a phased-in approach that is harmonized with provincial extended producer responsibility (“EPR”) programs and other non-Canadian jurisdictions would better align with the adoption of EPR across Canada.

Stakeholders noted that regulating the recyclability labelling of plastics could lead to competitive inequalities in the plastics industry. In response, Environment and Climate Change Canada (“**Environment Canada**”) recognized the value of third party standards and certifications for compostable plastics as a means of providing a level playing field for industry and greater assurances to facilities on the materials they are receiving.

Federal Plastics Registry Consultation

Stakeholders agreed that EPR data harmonization would be beneficial for expanding and improving recycling across Canada. There was consensus that there should be efforts to align the registry reporting requirements with provincial and territorial reporting systems; however, stakeholders had mixed feedback regarding the implementation timeline, with some preferring a phased-in approach and others preferring a fast-tracked implementation. Furthermore, industry stakeholders emphasized that there are large gaps between current data gathering practices and those required to support the registry. In an effort to address this issue, stakeholders agreed that a producer hierarchy should be used and that there should be a small business exemption.

Some stakeholders expressed a desire for a centralized portal that adhered to open data principles and that provides more detail than current EPR reporting systems; however, industry stakeholders expressed concerns about how a registry would protect confidential business information and fair market competition.

New Consultation Period

As a next step in the process of implementation of these two initiatives, Environment Canada published a regulatory framework paper on the development of proposed regulations that would set minimum recycled content requirements and labelling rules for plastic packaging and single-use items.^[3] It also published a technical paper outlining the technical details and reporting requirements being considered for the federal plastics registry, which will require producers to register and report on plastics supplied into the Canadian economy.^[4]

Environment Canada is looking to draft and publish regulations for both the labelling and recycled content rules and the federal plastics registry before the end of 2023. As part of this effort, it is again consulting stakeholders on the implementation of the labelling and recycled regulatory framework and plastics registry. The federal government will use the information received during the public comment period to develop these final instruments.

Planning Ahead for Business

The federal government is moving forward with plans to reduce the amount of plastic waste generated within

its borders through regulation. Businesses that manufacture, sell or import plastic products in Canada should remain alert to ongoing developments surrounding these two proposals as Canada moves towards its objective of zero plastic waste by 2030. We will continue to monitor these proposed regulations and provide updates as this matter develops in our “Plan for the Ban” series.

In addition, companies potentially impacted by these regulations should consider making submissions to the federal government by May 18, 2023 to ensure their voices are heard on these issues. We would be pleased to discuss any proposed submissions.

[1] Talia Gordner, Julia Loney and Ralph Cuervo-Lorens, “[Plan for the Ban: Canada Proposes Plastic Labelling Rules and Federal Plastics Registry](#)” (September 2022); 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).

[2] Environment and Climate Change Canada, What We Heard Report, “[Developing rules for recyclability and compostability labelling and a federal plastics registry](#)”.

[3] Environment and Climate Change Canada, Regulatory Framework Paper, “[Recycled content and labelling rules for plastics](#)”.

[4] Environment and Climate Change Canada, Technical Paper, “[Development of a proposed federal plastics registry for producers of plastic products](#)”.

by [Talia Gordner](#), [Julia Loney](#), and [Khaleed Mawji](#) (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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