

Federal Plastics Ban

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The Government of Canada took a major step towards finalizing its proposed ban on non-essential single-use plastics by the end of 2021. On May 12, 2021, it published the final Order Adding a Toxic Substance to Schedule 1 to the *Canadian Environmental Protection Act, 1999*, in order to designate “plastic manufactured items” as “toxic” under Schedule 1 of the Act.

This step enables the federal government to propose risk management measures to prevent plastic pollution, including regulating the quantity of plastic items produced in Canada, and how these products are to be processed, exported, stored, transported, and packaged. These measures may also include an extended producer responsibility policy.

According to the federal government’s discussion paper entitled “[A proposed integrated management approach to plastic products to prevent waste and pollution](#)” [PDF], and [as discussed in a previous Osler Update](#), the following single-use plastic items are the first to meet the requirements for a ban or restriction, although the toxic designation is broad enough that other items may follow:

- plastic checkout bags
- stir sticks
- 6-pack rings
- cutlery
- straws
- food service ware made from problematic plastics.

There are also many local governments across Canada that have instituted their own plastic initiatives or whose initiatives will become effective by the end of summer 2021. Each of these programs has different exemptions and requirements for alternative options to plastic, and some impose per-item fees.

The City of Toronto, for example, has instituted a Voluntary Measures Program as the first stage in its Single-Use and Takeaway Reduction Strategy. Solid Management Services will report back in the first quarter of 2022 with an update and action plan. It is expected to include any new considerations of the impact of the COVID-19 pandemic, any further implementation details, potential alignment with the federal government’s proposed approach to ban or restrict single-use plastic items, an implementation timeline, proposed approaches for any recommended additions to mandatory measures, and a review of options to incentivize businesses to reduce single-use and takeaway items.

Ontario – New Blue Box Regulation

On June 3, 2021, Ontario's Ministry of Environment, Conservation and Parks released the finalized Blue Box Regulation under the *Resource Recovery and Circular Economy Act, 2016*. The regulation will transition Ontario's blue box recycling program, covering paper products and packaging for household uses, from a shared responsibility framework between municipalities and producers to a full extended producer responsibility framework starting in 2023. In practice, most producers will enter into agreements with large producer responsibility organizations who will assist producers with adhering to the new requirements.

The new regulation will be phased in regionally based on municipality between 2023 and 2025 according to the transition schedule, starting in 2023 in Toronto, London, Kenora and the Town of Hawkesbury. Each municipality in Ontario is required to continue upholding its responsibilities until the program is transitioned to full producer responsibility in that municipality.

According to the final regulation, all producers of blue box materials must register with the Resource Productivity and Recovery Authority on or before October 1, 2021 and must submit their initial annual report to the Authority, through its Registry, on or before April 30, 2022. Where the "producer" is a business operated wholly or in part as a franchise, the producer is the franchisor, if that franchisor has franchisees that are resident in Ontario.

The new regulation also includes a standardized list of blue box materials, an "allocation table" which will delineate the areas allocated to each producer, an obligation for producers to contribute to the cost of managing packaging-like and single-use items, an exemption for certified compostable materials (although producers of these materials will still have to register and report), an expansion of blue box services to additional sources, and targets for material management.

Producer responsibility organizations who enter into agreements to represent individual producers will be responsible for creating the collection and allocation rules to govern the mandated allocation table.

Ontario – New Hazardous and Special Products Regulation

On June 8, 2021, the Ministry of the Environment, Conservation and Parks issued the final Hazardous and Special Products Regulation under the *Resource Recovery and Circular Economy Act, 2016*.

As of September 30, 2021, the Stewardship Ontario program will wind up and the program will transition to a producer responsibility regime under the supervision of the Resource Productivity and Recovery Authority where producers will take on full responsibility for program funding and the collection and management of Hazardous and Special Products. As with the new Blue Box Regulation, most producers will enter into agreements with large producer responsibility organizations who will assist producers with adhering to the new requirements. Obligations vary depending on the categories of products set out below and the amount of material produced.

The regulation divides up designated materials into five categories:

- A – non-refillable pressurized containers, oil filters

- B – antifreeze, oil containers, paints and coatings, pesticides, solvents, refillable pressurized containers
- C – barometers, thermometers, thermostats
- D – fertilizers
- E – refillable propane containers

All producers must register with the Resource Productivity and Recovery Authority on or before October 31, 2021 and must submit an interim 2022 report for Categories A, B and C on or before January 31, 2022 and a first supply report for Categories A and B on or before July 31, 2022. All producers must comply with annual reporting requirements for Categories A, B, C and D on or before July 31 of each year, starting two years after a producer is required to register.

The new regulation does include a small producer exemption (also known as a de minimis threshold) which exempts certain Category A and B producers from collection, management and promotion and education obligations. These producers are still required to register, report and keep records related to these products.

Members of Osler's Regulatory, Environmental, Aboriginal and Land group are available to answer any questions you may have about the changes above and provide guidance on how to implement these changes within your organizations.