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Canada's Ban on Six Categories of Single-Use Plastics Means Significant Changes for the Retail and Foodservice Industries

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On June 22, 2022, the federal government enacted *Single-use Plastics Prohibitions Regulations* (the Regulations), which prohibit the manufacture, import, sale, and export of the six (6) categories of single-use plastic (SUP) items meeting the following *general* definitions.

1. **Checkout bags** (or “shopping bags,” “carryout bags,” and “grocery bags”) is defined as bags made entirely or in part of plastic which are given to customers at point of sale to carry their purchased goods. (There are additional components to the definition depending on whether the plastic is or is not a fabric within the meaning of the *Textile Labelling Act*.) This includes plastic bags used to carry and deliver takeout food or drinks from a restaurant. The definition excludes bags such as bags to hold organic waste for composting; “produce bags” to package fruit, vegetables, candy, grains, nuts and other loose bulk food items; and bags to protect prepared foods that are not prepackaged, such as bakery items, among other types of bags. “Fabric textile bags” meeting certain requirements are not prohibited.
2. **Cutlery** is defined as items made entirely or in part from plastic that are in the shape of forks, knives, spoons, sporks and chopsticks and contains polystyrene or polyethylene or changes its physical properties after being run through an electrically operated household dishwasher 100 times.
3. **Foodservice ware** is defined as items made entirely or in part from plastic that are in the shape of clamshell containers, lidded containers, boxes, cups, plates, and bowls, are designed for serving or transporting ready to consume food and beverage, and contain polystyrene foam, polyvinyl chloride, carbon black or oxo-degradable plastics.
4. **Ring carriers** is defined as an item made entirely or in part from plastic that is formed in the shape of a series of deformable rings or bands that are designed to surround beverage containers in order to carry them together.
5. **Stir sticks** (or “stirrer,” “mixer,” “muddler,” “stopper,” or “plug”) is defined as an item made entirely or in part from plastic that is designed to stir or mix beverages or to prevent a beverage from spilling from the lid of its container.

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6. **Straws** are defined as drinking straws that are made entirely or in part from plastic and contains polystyrene or polyethylene or changes their physical properties after being run through an electrically operated household dishwasher 100 times. “Flexible SUP straws” are defined as a single-use plastic straw that has a corrugated section that allows the straw to bend and maintain its position. The manufacture and import of flexible SUP straws is not prohibited under the Regulations, but the sale is only permitted in certain circumstances. For example, hospitals, medical, and long-term care facilities, and other institutions may make them available to patients. Export of flexible SUP straws is permitted provided they meet certain conditions for sale set out in the Regulations.

There are exclusions from and nuances to the categories so care must be taken to consult the Regulations to determine if the item of interest is included or excluded.

The ban on the manufacture and import of 1, 2, 3, 5 (except flexible SUP straws packaged with beverage containers) and 6 come into effect on December 20, 2022, and the ban on the sale of these categories comes into effect on December 20, 2023.

The ban on the manufacture and import of 4 and flexible SUP straws packaged with beverage containers (e.g., juice boxes) will come into effect on June 20, 2023, and ban on the sale of these items will come into effect on June 20, 2024. The longer transition period is to accommodate the retooling of the manufacturing lines.

The Regulations will also prohibit the export of these SUP items by December 20, 2025.

The Regulations impact not only manufacturers, importers, distributors and retailers of these SUP items, but also businesses like grocery stores, pharmacies, hotels and restaurants that make these SUP items available to the public to eat, drink or carry their purchases. The federal government has published *Single-use Plastics Prohibitions Regulations – Technical Guidelines* to help interpret the Regulations.

The federal government has also published a guidance document to help businesses and organizations transition away from these SUP items (the Guidance Document). For example, in connection with SUP cutlery, the Guidance Document recommends that customers be given the option to specify whether they want single-use cutlery at all when meals are eaten at home. If single-use cutlery is specified, it should be made of alternative materials to plastic, such as bamboo or wood from sustainably managed forests or from cereals (wheat, oats, corn or rice), and accompanied by a fee charged to the consumer to discourage use. For those dining in, businesses should offer reusable aluminum/stainless steel options versus SUP cutlery.

With respect to foodservice wares, the Guidance Document recommends that customers be encouraged to bring their own containers; businesses develop a deposit and refund system for reusable containers made of materials such as glass, stainless steel, silicone or rigid recyclable plastic; businesses use plant-based or fibre-based alternatives or use recycled plastic resin provided it is “food grade.” (See: Health Canada’s

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Guidelines for Determining the Acceptability and Use of Recycled Plastics in Food Packaging Applications.)

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.