

Fines Issued Under Producer Responsibility Regulations — Further Requirements Coming in Alberta and Ontario in 2025

Melissa Winch, A. Chandimal Nicholas, Jeremy Barretto, Dakota Bundy, Samantha Khaouli

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Canadian provinces have been taking steps to shift the responsibility and cost of recycling certain materials from municipalities to the producers of the materials. In Ontario, this shift has been pursued through the *Blue Box Regulation*, 391/21,¹ while in Alberta it falls under the *Extended Producer Responsibility Regulation*, 194/22.² Both provinces have committed to further implementing producer responsibility regulations by 2025 to make recycling programs more efficient and effective. While this Cassels Comment focuses on Ontario and Alberta, if your business is a “producer” under the regimes of other Canadian provinces, you may have obligations thereunder.

The recent issuance of producer responsibility fines in Ontario is an important reminder to ensure your business activities in Ontario and Alberta are in compliance with producer obligations under the *Blue Box Regulation* and the *Extended Producer Responsibility Regulation*. Significant fines under both regulations can be avoided if you are adequately informed and prepared.

If your business is a “producer” of materials that are subject to either of these regimes, the regulations in both Ontario and Alberta may impact your services. It is important to be aware of these regulations to avoid potential fines that may be issued against you as a result of non-compliance.

JOIN US! Cassels is hosting a webinar on October 9, 2024, at 12 PM EST in which these regulatory regimes will be discussed. To join us for "Health Check: Hot Topics in Food, Drug and Health Product Regulation," [please register here](#).

Ontario Blue Box Regulation Regime

In Ontario, the Resource Productivity and Recovery Authority (RPRA) is the regulator mandated by the Government of Ontario to enforce the province's circular economy laws. The RPRA is responsible for the *Blue Box Regulation*, which includes shifting the responsibility to make producers fully accountable and financially responsible for the disposal and recycling of their products and packaging. Through the *Blue Box*

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Regulation, under the *Resource Recovery and Circular Economy Act* (RRCEA), “producers” are those that supply Blue Box material (packaging, paper products or packaging-like products) comprised of paper, glass, metal or plastic, or a combination of these materials to consumers in Ontario. This can include a resident brand holder, importers and retailers.³ Franchisors are also obligated producers for their franchise systems, if they have franchisees resident in Ontario. The transition to the program outlined in the *Blue Box Regulation* will be complete by December 31, 2025. By January 1, 2026, producers will be fully responsible for the lifecycle of their products, meaning they will be accountable and financially responsible for collecting and recycling their products after consumers discard them.

Non-compliance with the *Blue Box Regulation* can result in significant penalties or prosecution. The first administrative penalty for non-compliance with the requirements under the *Blue Box Regulation* was issued to Casper Sleep Inc. on June 28, 2024, in the amount of \$340,457.04.⁴ For more information on the first administrative penalty issued under the Blue Box Regulation, see [here](#). Recently, the second administrative penalty of \$119,475.18 was issued to Postmedia Network Inc. and on September 30, 2024.⁵

Alberta Extended Producer Responsibility Regime

Alberta has implemented an Extended Producer Responsibility program under the *Extended Producer Responsibility Regulation*. The Extended Producer Responsibility program shifts the costs of recycling materials like single-use products, packaging, and paper products away from municipalities to producers of these products.⁶

Alberta's Extended Producer Responsibility program is managed by the Alberta Recycling Management Authority (ARMA). ARMA has the ability to fine producers for non-compliance with the Extended Producer Responsibility program. The ARMA plan to begin Phase I of their single-use products, packaging, and paper program by April 1, 2025. Phase II will begin by October 1, 2026.⁷ When Phase I begins, producers will officially be responsible for collection services to the first batch of communities and will continue to do so for the next set of communities when Phase II begins.⁸

How to Prepare

The issuance of fines is an important reminder to ensure your business activities in Ontario and Alberta (and other Canadian provinces) are in compliance with producer obligations under the applicable regulations. We recommend that producers in Alberta and Ontario (and other Canadian provinces) become adequately informed and proactively comply with applicable regulations to ensure compliance and avoid fines and other enforcement measures.

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¹ O. Reg. 391/21: Blue Box under *Resource Recovery and Circular Economy Act, 2016*, S.O. 2016, c. 12, Sched. 1 [Blue Box Regulation].

² Alta Reg 194/2022: Extended Producer Responsibility Regulation under *Environmental Protection and Enhancement Act, RSA 2000, c E-12* [Extended Producer Responsibility Regulation].

³ Blue Box Regulation, *supra* note 1, s. 9 and s. 10.

⁴ Resource Productivity and Resource Authority, “Administrative Penalty Order” June 28, 2024, online: <<https://rpra.ca/wp-content/uploads/00074511-RPRA-Administrative-Penalty-Order-Casper-Sleep-Inc.pdf>>.

⁵ Resource Productivity and Resource Authority, “Administrative Penalty Order” September 30, 2024, online: <<https://rpra.ca/wp-content/uploads/RPRA-Administrative-Penalty-Order-RPRA-0013-Postmedia-Network-Inc.pdf>>.

⁶ Government of Alberta, “Regulated Extended Producer Responsibility Systems” online: <<https://www.alberta.ca/regulated-extended-producer-responsibility-programs>>.

⁷ *Ibid.*

⁸ Alberta Recycling Management Authority, “Producers” online: <<https://www.albertarecycling.ca/epr-producers/>>.

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