

## EU Publishes Updated Draft of Single-Use Plastics Directive

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The Council of the European Union published on January 18, 2019, an amended version of the draft Directive on the reduction of the impact of certain plastic products on the environment (also referred to as the “Single-Use Plastics Directive”). The [amended draft directive](#) makes significant changes to the European Commission’s (EC’s) original proposed draft of May 28, 2018. (For more information on the May 28 draft directive, see the PackagingLaw.com article, [EU Advances its Strategy for Plastics in a Circular Economy](#).) An overview of some of the main amendments is provided below.

At the outset, it is important to keep in mind that the definition of “single-use plastic product” in the draft Single-Use Plastics Directive does not require the product to be entirely comprised of plastic. Hence, this definition is quite broad in its scope. The updated draft lists examples of single-use plastics that include: 1) fast-food containers; 2) meal, sandwich, wrap and salad boxes for cold or hot food; and 3) food containers for fresh or processed food that does not need further preparation, such as fruits, vegetables or desserts. Examples of food containers that are not to be considered as single-use plastic products for the purposes of this Directive are food containers with dried food or food that is sold cold requiring further preparation, containers containing food in more than single-serve portions, and single-serve portion-sized food containers sold in more than one unit. Examples of beverage containers to be considered as single-use plastic products for the purposes of this Directive are: beverage bottles or composite beverage packaging used for beer, wine, water, liquid refreshments, juices and nectars, instant beverages or milk, but not cups for beverages as these are a separate category of single-use plastic products.

### **The amendments to definitions in the draft Directive include revisions to existing definitions and the following new definitions:**

- Oxo-degradable plastic: plastic materials that includes additives which through oxidation lead to the fragmentation of the plastic material into micro-fragments or to chemical decomposition
- Biodegradable plastic: a plastic capable of undergoing physical, biological decomposition, such that it ultimately decomposes into carbon dioxide (CO<sub>2</sub>), biomass and water and in accordance with European standards for packaging recoverable through composting and anaerobic digestion

Other amendments impact compliance dates and specific single-use plastic products to be included in the upcoming measures. For example, the list of single-use plastic products covered by the consumption reduction requirement (Part A of the Annex) was expanded to include cups for beverages, including their covers and lids, as well as food containers used to contain food that is typically consumed from the receptacle and is ready to be consumed without any further preparation, such as cooking, boiling or heating. The latter group includes food containers used for fast food and for other meals that are ready for immediate consumption. (Food containers for fast food was included in the May 2018 draft Directive.)

Article 5 of the draft Directive prohibits the marketing of products made from oxo-degradable plastic, as well as the single-use plastic products listed in Part B of the Annex. This list was expanded to include certain products made from expanded polystyrene, namely: beverage containers; cups for beverages; and food containers used to contain food that is intended for immediate consumption, typically consumed from the receptacle, and ready to



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be consumed without any further preparation.

**With respect to compliance dates, examples of deadlines for Member States (MSs) are:**

- By 2025: (i) a requirement for PET beverages to be made from at least 25% recycled plastics calculated as an average for all PET bottles placed on the national market; and (ii) a requirement to achieve an annual 77% separate collection rate by weight for single-use beverage bottles with a capacity of up to three liters, including their caps and lids
- By 2026: a requirement to achieve a measurable quantitative reduction in the consumption of the single-use plastic products listed in Part A of the Annex in comparison to 2022
- By 2029: a requirement to achieve an annual 90% separate collection rate by weight for single-use beverage bottles with a capacity of up to three liters, including their caps and lids
- By 2030: a requirement for PET beverages to be made from at least 30% recycled plastics, calculated as an average for all PET bottles placed on the national market

It is also noteworthy that the most recent draft of the Directive elaborates significantly on extended producer responsibility. It indicates that producers of certain single-use plastic products must cover the costs for collection of waste discarded in public collection systems, the clean-up of litter of those products, as well as the costs of awareness-raising measures amongst the public aiming at a reduction in the littering of single-use plastics.

Importantly, under the amended draft Directive, the EC, in consultation with MSs, is required to publish guidelines on what is considered to be single-use plastics. This is in addition to the criteria listed in the Annex.

The amended draft of the Single-Use Plastics Directive is not the final version as additional amendments may still be proposed by the European Parliament or the Council. The tentative timeline for the adoption of the Directive is June 2019.

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