
SINGLE-USE RETAIL BAG PROGRAM OPERATIONAL POLICIES

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1. WHAT IS CONSIDERED A SINGLE-USE RETAIL BAG (SRB)?

According to the Single-use Retail Bag Regulations (Regulations), a “single use retail bag” is:
A bag that is designed to carry customer purchases from a retail store, but does not include

- a) *a bag that is specifically designed and manufactured for multiple reuse and is made of cloth or other durable material suitable for reuse,*
- b) *a bag provided by a pharmacist to contain prescription drugs,*
- c) *a bag used to protect dry-cleaning*
- d) *a small lightweight bag provided to a customer inside a retail store that is designed to contain*
 - i. *bulk items not otherwise contained in primary packaging such as nuts, grains, candy or small hardware items such as nails and bolts,*
 - ii. *raw fruits and vegetables, bakery items, fresh or frozen meat, fish or poultry, or*
 - iii. *prepared foods, whether hot or cold*

The Regulations were created in the spirit of waste reduction, and from an operational standpoint, the Department of Environment and Natural Resources (ENR) understands the definition of ‘reusable bag’ in the Regulations to mean a bag that is:

- durable enough to withstand many uses;
- likely to be reused many times by most consumers; and
- washable (by hand or machine).

As such, the following types of bags **are considered single-use retail bags (SRBs)** for the purposes of this program:

- Thick paper gift/boutique type bags of all sizes (may or may not have rope handles)
- Thick plastic boutique bags of all sizes (may or may not have rope or heavyweight plastic handles)
- Small decorative bags to contain jewellery or other small items (whether intended as gifts or not)
- Small paper or plastic bags to contain cards, printed products, or other small items

2. BAGS FOR WHICH THE SRB FEE DOES NOT APPLY

2.1 BAGS PROVIDED BY A PHARMACIST TO CONTAIN PRESCRIPTION DRUGS

In the interest of protecting consumer privacy and confidentiality in procuring prescription medication and devices, no SRB surcharge is applicable for paper bags of all sizes used to contain prescription items. Such bags shall be used for prescriptions only; they are not for general use at the customer check-out. Pharmacies are expected to provide an alternative to

paper bags at the check-out counter in order to clearly show a distinction between bags destined for prescription purposes and bags used at the check-out counter.

Note: Any pharmacy using paper bags at the check-out counter to contain anything other than prescriptions may be subject to a penalty under the Regulations.

2.2 PROVISIONS FOR RETAIL STORES THAT ALSO OPERATE RESTAURANTS

ENR recognizes that retail stores which also operate as restaurants may need to provide some type of packaging to customers to contain prepared foods for delivery or take-out purposes. SRBs used as packaging for prepared foods for delivery or take-out purposes can be distributed to customers free of charge.

Since distributors of SRBs to retail stores are required to charge retail stores a 25 cent surcharge for all SRBs distributed, these retailers must apply to ENR for a refund on the surcharges paid for SRBs used for delivery or take-out of prepared foods.

Please see Section 2.5 (Application by a retailer for a refund for SRB fees paid to a distributor for an exempted bag) for further details regarding eligibility and applications for a retailer refund for exempted bags, and 2.6 for the schedule for applying for a refund.

2.3 EXEMPTIONS FOR LARGE FILM BAGS TO PROTECT DRY-CLEANING AND FLOWERS

As section 1 of the Regulations specifies, “a bag used to protect dry-cleaning” is exempt from the definition of a single-use retail bag. Similar bags used to protect flowers are also exempt from the SRB fee.

2.4 SMALL LIGHTWEIGHT BAGS PROVIDED TO CUSTOMERS INSIDE A STORE

In order to be exempt from the SRB surcharge, any bag provided to customers inside a store that is designed to contain the following items must be visually distinct (be it in material type, colour, size, etc.) from bags that are provided to customers at the check-out:

- i. bulk items not otherwise contained in primary packaging such as nuts, grains, candy or small hardware items such as nails and bolts,
- ii. raw fruits and vegetables, bakery items, fresh or frozen meat, fish or poultry, or
- iii. prepared foods, whether hot or cold.

2.4.1 EXEMPTED BAGS THAT ARE CLEARLY DISTINGUISHABLE AT THE DISTRIBUTOR LEVEL

In the case where it is possible and reasonable for a distributor to make a distinction between a check-out SRB and an exempted bag designed for other store purposes as listed in (i) through (iii), the distributor may distribute such exempted bags to the retail store without charging the SRB fee. Such bags must be clearly designed for the exempted purpose, and cannot be mistaken for an SRB check-out bag. Acceptable examples may include:

- lightweight translucent or transparent film bags typically found in a grocery store to contain produce, bulk candy, meat or poultry;

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- small paper bags (plain kraft or white paper) to contain bulk hardware, candies, mushrooms or other such items that are 6"x3-5/8"x11-1/16" (6lb) or smaller in size;
 - small paper, (waxed or not), or foil bags designed to contain prepared foods.

A retailer or distributor should consult ENR if he/she believes that he/she distributes another type of clearly distinguishable exempted bag.

NOTE: Retailers must not use such exempted bags as check-out bags unless the appropriate SRB fees have been paid to a distributor and are being charged to customers. Retailers using exempted bags as SRBs may face a penalty under the Regulations. Retailers that use such bags as SRBs at their check-out counters should advise their distributor to charge the SRB fee up-front, and ensure that consumers are charged according to the regulations.

2.4.2 EXEMPTED BAGS THAT ARE NOT CLEARLY DISTINGUISHABLE AT THE DISTRIBUTOR LEVEL

In the case where it is impossible or unreasonable for a distributor to make the distinction between a check-out bag and an exempted bag designed for other store purposes as listed in (i) through (iii), the distributor should charge the retail store for such bags. The retailer is then eligible to apply to ENR for a refund for SRB fees paid for bags destined for the in-store, exempted uses listed above.

Examples may include:

- a paper bag that may be used by one retailer as a check-out bag, and by another as a bag for bulk hardware
- bags used by one retailer to contain prepared food for take-out of delivery, that are also used by another retailer as a check-out bag.

2.5 APPLICATION BY A RETAILER FOR A REFUND FOR SRB FEES PAID TO A DISTRIBUTOR FOR AN EXEMPTED BAG

In the case where a retailer has been charged an SRB fee for an exempted bag, this retailer may apply to the Chief Environmental Protection Officer for a refund. To apply for such a refund, a retailer must provide the following information:

- a completed Retailer Refund for Exempted Bag Form (SRBP RF5), including the total number of SRBs received from their distributor(s), quantity and type of exempted bags for which SRB fees were paid to a distributor, and the total refund requested;
- proof of payment of surcharge to distributor (a receipt or other such proof of payment); and
- proof that bags for which a refund is sought are used solely for exempted purposes.

As proof that bags for which a refund is sought are only used for accepted exempted purposes, such as to contain bulk items, prepared foods (including for delivery or take-out purposes) or raw fruits and vegetables, meats, poultry and fish, ENR will accept evidence that shows that the retailer uses different types of bags for the exempted purposes than for their check-out purposes. If the distinction can clearly be shown through distributor invoices and through bag appearance (for instance, that check out bags vary in material type, size, colour, or other visually identifiable feature), a refund should be issued to the retailer.

To clarify any doubts, a retailer should provide clear information to ENR prior to purchasing bags to ensure that check-out and exempted bags are clearly distinguishable, and that the selected exempted bags will be eligible for a refund.

NOTE: Retailers must not use such exempted bags as check-out bags. A retailer that provides SRBs he/she has identified to ENR as his/her bags for exempted purposes to customers for check-out purposes may be subject to a penalty under the Regulations.

2.6 SCHEDULE FOR APPLYING FOR A REFUND

ENR will begin processing requests for refunds no sooner than 30 days after the end of the quarter in which the retailer received the SRBs in question from his or her distributor, with the exception of the last quarter of each Government of the Northwest Territories (GNWT) fiscal year, when requests may be processed sooner. This allows time for reconciliation with distributor remittances. ENR will reimburse the retailer 25¢ for each SRB destined for exempted purposes. All requests for refunds must be received at ENR's office by March 31st for the GNWT fiscal year that the SRBs were purchased or received from the distributor.

3. RESTAURANTS OR SIMILAR BUSINESSES THAT MAY INCIDENTALLY SELL A LIMITED NUMBER OF GOODS

Retail stores and distributors that supply SRBs to Northwest Territories (NWT) retail stores must comply with the Regulations. According to these regulations, a retail store is:

- an establishment that sells goods to customers, but does not include
- (a) a store operated by a society incorporated under the *Societies Act*, or a charity registered under the *Income Tax Act* (Canada), or
 - (b) a restaurant or similar business which generates revenue from the sale and service of meals to customers for immediate consumption and which may incidentally sell a limited number of goods to customers.

By “may incidentally sell a limited number of goods to customers”, it is understood that a restaurant or similar business generates 90% or more of its revenue from the sale and service of meals to customers for immediate consumption. A business that generates more than 10% of its revenue from the sale of goods is considered a retail store. The onus is on the business to supply to the Chief Environmental Protection Officer the following in order to qualify as a non-retailer:

- Net revenue from last full year of operation (or less if the business has not operated for a year) that clearly indicates the revenue generated from the sale and service of meals to customers for immediate consumption and the revenue generated from selling incidental goods.

4. REGISTRATION AS A RETAILER

All retail stores must register as retailers under the Program with the ENR. Understanding the registration is non-transferable, an applicant can apply for one registration that applies to

multiple retail stores. In such a case, the applicant would be required to provide the required information for each individual outlet represented by the registered applicant.

For example, if A, B, C, and D are individual retail stores that are part of the same company or association, they may choose to have one party, 'Q', register on their behalf. This party would then be required to supply detailed information, in a manner that makes it clear which information pertains to each store. If A, B, C, or D changed their status as a retail store (were they to close, become a restaurant or other service-based business, etc.), Q would be required to submit all relevant information to the GNWT in order to amend the registration. A significant change in ownership or association would require a new registration.

The information required of a retailer can be found on the 'Application for Registration as a Retailer' form – SRBP R1. All retailers must comply with any terms and conditions established by the Chief Environmental Protection Officer in the registration.

4.1 DURATION OF RETAILER REGISTRATION

Retailer registrations should be granted for a period of three years, or, registrations may be granted for a shorter period if:

- i. for administrative purposes, it would be beneficial to have all retailers' registrations expire on the same date; or
- ii. there is a specific issue or concern with a particular retailer, the Chief Environmental Protection Officer may decide to offer a shorter registration.

4.2 AMENDMENTS TO RETAILER REGISTRATIONS

Retailer registrations may be amended upon request by the retailer or by ENR if new information has come to light, or if changes to the terms and conditions, including the date of expiry, are required.

5. REGISTRATION AS A DISTRIBUTOR

Any party that supplies an NWT retail store with SRBs must register as a 'distributor' for the purpose of this program. Registration is non-transferable, and any change in ownership would require a new application of registration. The information required of a distributor can be found on the 'Application for Registration as a Distributor' form –SRBP D1.

All distributors must comply with any terms and conditions established by the Chief Environmental Protection Officer in the registration. If a distributor is unsure of the status of a retail store, they may ask for clarification from the Chief Environmental Protection Officer.

5.1 DURATION OF DISTRIBUTOR REGISTRATION

Distributor registrations should be granted for a period of three years, or, registrations may be granted for a shorter period if:

- i. for administrative purposes, it would be beneficial to have all distributors' registrations expire on the same date; or

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- II. there is a specific issue or concern with a particular distributor, the Chief Environmental Protection Officer may decide to offer a shorter registration.

5.2 AMENDMENTS TO DISTRIBUTOR REGISTRATIONS

Distributor registrations may be amended upon request by the distributor or by ENR if new information has come to light, or if changes to the terms and conditions, including the date of expiry, are required.

6. REDISTRIBUTION OF SRBS BY A RETAIL STORE:

The 25¢ fee applies to all SRBs distributed to registered retailers in the NWT. For greater certainty when interpreting this policy, retailers that operate multiple establishments, of which one or more may not be considered as retail stores under the *Regulations*, must pay the fees for all SRBs received from distributors.

A retailer that redistributes SRBs to one or more establishments must notify the Chief Environmental Protection Officer of this redistribution. A retailer is eligible to apply to the Chief Environmental Protection Officer for a refund of the SRB fees he or she has paid to a distributor for SRBs redistributed to an establishment that is not a retail store under the *Regulations*.

6.1 REDISTRIBUTION TO NON-RETAIL STORES

A retailer that redistributes SRBs to non-retail store establishments in the NWT is eligible for a refund of the SRB fees he or she has paid to a distributor for such bags.

6.1.1 NOTIFICATION OF REDISTRIBUTION

A retail store that redistributes SRBs to another establishment in the NWT must supply the following information to the Chief Environmental Protection Officer:

- Business name and contact information for each establishment to which the store distributes SRBs.

6.1.2 APPLICATION FOR A REFUND

To apply for a refund for SRBs redistributed to an establishment that is not a retail store, a retailer must provide the following information to the Chief Environmental Protection Officer:

- a completed Retailer Refund for Redistributed Single-use Retail Bags Form (SRBP RF4) detailing the name of establishments to which SRBs were distributed, the number of SRBs distributed, and the total refund requested;
- proof of redistribution of SRBs such as:
 - itemized invoice(s) or receipt(s) (including the number of bags supplied) signed by the final recipient(s) of redistributed SRBs, or
 - a copy of both the itemized invoice and the cheque, debit slip or other proof of payment by the final recipient(s) of redistributed SRBs; and

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- a receipt or other such proof that the surcharge was paid to a distributor for redistributed bags

6.1.3 SCHEDULE FOR APPLYING FOR A REFUND

ENR will begin processing requests for refunds no sooner than 30 days after the end of the quarter in which the retailer received the SRBs in question from his or her distributor, with the exception of the last quarter each GNWT fiscal year, when requests may be processed sooner. This allows time for reconciliation with distributor remittances.

ENR will reimburse the retailer 25¢ for each single-use retail bag he or she distributed to a non-retail store establishment. All requests for refunds must be received at ENR's office by March 31st for the GNWT fiscal year in which the SRBs were redistributed.

6.2 REDISTRIBUTION TO NWT RETAIL STORES

In the event a retail store in the NWT redistributes SRBs to another retail store within the NWT, this store must register as a distributor with the GNWT as outlined in policy (3) regarding registration as a "distributor". For certainty in interpreting this policy, a retailer that redistributes SRBs to other retail stores will be referred to as a 'retailer/distributor'.

Since the surcharge has already been paid once, the retailer/distributor is not required to remit any funds to the GNWT; however, she or he must report by submitting the 'Distributor Quarterly Reporting' form (SRBP D2) within 30 days of the end of each quarter. In lieu of remitting the fee, the retailer/distributor would be required to show proof of payment of the surcharge on the bags (such as the receipt from the first distributor), and proof that retailer/distributor has collected the surcharge for each SRB redistributed to any NWT retail store.

7. REFUNDS FOR DEFECTIVE OR OTHERWISE UNUSABLE BAGS

7.1 RETAILERS:

Retail stores are eligible to apply for a refund of the SRB fee paid on any bags that are faulty or unusable by that store. No bags for which a refund is given must be made available to the public.

Retail stores should report unusable bags to distributor using the 'Defective Bag Refund Report - Retailer' (SRBP RF1) form. Proof of payment of the 25¢ surcharge must be provided by the retail store to be eligible for a refund.

As acceptable proof the bags are unusable and will not be made available to the public, retail stores should send one sample of the unusable bags to their distributor, and another to ENR. All remaining unusable bags should either be returned to the distributor, or delivered to the local Beverage Container Program (BCP) depot.

If the retailer will be delivering bags to the local BCP depot, the retailer should notify ENR at least two weeks prior to delivering the bags. The retailer should request the depot operator fill in and sign a 'Defective Bag Refund – Returned Bag' report (SRBP RF2) or reasonable

facsimile. This form should be forwarded to the distributor along with the SRBP RF1 report. A retail store making a fraudulent claim will be subject to a penalty as laid out by the *Waste Reduction and Recovery Act*.

7.2 DISTRIBUTORS:

If a distributor receives an application for a refund on surcharges not yet remitted to the Environment Fund, the distributor should issue the payment to the retailer provided the application is complete and includes the required proof that all bags are unusable and will not be made available to the public as described in 5.1.

The distributor shall then forward the SRBP RF1, SRBP RF3 and, if applicable, the SRBP RF2 reports and any supporting documents to ENR.

If a distributor receives an application for a refund on surcharges already remitted to the Environment Fund, the distributor shall complete the 'Defective Bag Refund Report - Distributor' (SRBP RF3), and send it with any required documents, to ENR for a refund. This refund should then be passed on to the retail store by the distributor. All requests for refunds must be received at ENR's office by March 31st of the year the SRBs were purchased from the distributor.

8. ELIGIBILITY, AVAILABLE FUNDS AND REPAYMENT OF START-UP LOANS

A one-time interest-free loan is available to retail stores that require assistance with their first purchase of Single-use Retail Bags upon entry into the SRB program. This loan is intended to offset the purchase of bags, and is not to be used for other store purposes. Since the program aim is to reduce the number of single-use retail bags used in the NWT, there are limits on the amount of money any one retailer can request as a start-up loan. Retailers should submit a 'Retailer Application for Interest-free Loan' form –SRBP L1 to ENR.

8.1 ELIGIBILITY:

A retail store's eligibility to apply for a loan is dependent on the number of bags it has in its inventory on which it can collect fees from customers prior to purchasing bags from its distributor. The maximum amount a store is eligible to apply for under the interest-free loan program is outlined in 8.2 '*Value a given store can apply for*'. If a store has more bags in its inventory than 60% of what they would typically have ordered for the same period in the previous year, (in other words, A_{max} in the formula below is a negative number), this store is ineligible for a loan.

8.2 VALUE A GIVEN STORE CAN APPLY FOR:

For any retail store serviced by surface transportation for a minimum of 2 seasons of the year, the maximum value available is \$5,000. However, not all stores may be eligible for the maximum amount. The following formula guides the calculation of the maximum amount that any particular store may request as a start-up loan.

$$A_{\max} = \$0.25 \times (0.6 N_o - N_i)$$

Where

A_{\max} is the maximum value a store is eligible to apply for

N_o is the number of bags that store would typically order (based on previous orders), and

N_i is the number of bags in the store's inventory on the date the program came into effect

1. For example, if a store that would previously have ordered 20,000 bags in one quarter had 8,000 bags in stock at the beginning of the program, the following calculation reveals the amount that store is eligible to apply for:

$$\begin{aligned} A_{\max} &= \$0.25 \times (0.6 N_o - N_i) \\ &= \$0.25 \times [0.6(20,000) - 8,000] \\ &= \$0.25 \times [12,000 - 8,000] \\ &= \$0.25 \times 4,000 \\ &= \$1,000 \end{aligned}$$

2. If the amount calculated is a negative number, the store is not eligible for funding. Take the case of a store that would previously have ordered 20,000 bags that has 15,000 bags in stock upon entry into the program:

$$\begin{aligned} A_{\max} &= \$0.25 \times (0.6 N_o - N_i) \\ &= \$0.25 \times [0.6(20,000) - 15,000] \\ &= \$0.25 \times [12,000 - 15,000] \\ &= \$0.25 \times (-3,000) \\ &= -\$750 \end{aligned}$$

Since the value is negative, this store is not eligible for a loan.

3. If the value exceeds \$5,000, the store may only apply for \$5,000. Take the example of a store that would previously ordered 45,000 bags that has 5,000 bags in stock upon entry into the program:

$$\begin{aligned} A_{\max} &= \$0.25 \times (0.6 N_o - N_i) \\ &= \$0.25 \times [0.6(45,000) - 5,000] \\ &= \$0.25 \times (27,000 - 5,000) \\ &= \$0.25 \times 22,000 \\ &= \$5,500 \end{aligned}$$

A_{\max} exceeds \$5,000; this store is eligible to request a loan totaling \$5,000.

In the case of retail stores in remote locations that receive shipments via barge or truck during only one season of the year, the Chief Environmental Protection Officer may consider granting more than \$5,000 if necessary. In such cases, the above formula should still be used to calculate the value that such a store may request.

8.3 REPAYMENT OF LOANS:

Loans will be negotiated on a case by case basis to determine the most suitable form and schedule of repayment. Loans must be repaid within six months. Exceptions may be made in the case of remote communities serviced by surface transportation for less than two seasons per year. In these cases, a longer repayment period may be negotiated, however this period should not exceed one year.

8.4 DEFAULTING ON A LOAN:

If a loan is not paid in the negotiated period of time, the case will be turned over to the Department of Finance to collect outstanding funds from the borrower.

9. RETAIL STORES THAT REUSE BAGS

ENR supports the spirit of reuse demonstrated by a number of NWT retailers; however it must ensure that the consumer education goals of the Regulations are fulfilled. As such, all customers must be charged 25¢ for each SRB requested from a retail store, regardless of whether they receive a new or used bag from a retail store. In such a case, the retail store shall register with as a retailer with ENR, and will collect 25¢ (plus GST) for each SRB requested by customers. The SRB fees collected from customers then remain entirely with the retailer; they are not remitted to ENR. The GST should still be remitted to Canada Revenue Agency.

For further clarification: a retailer is permitted to provide second hand SRBs to its customers, however, this retailer must charge the customer the SRB fee that applies to all SRBs (whether new or used) from all retail stores. No reporting or remittance is required of a retailer for distributing used SRBs.

10. WHOLESALERS

Under section 3.1(a) of the Single-use Retail Bag Regulations, the Chief Environmental Protection Officer may determine whether a person is required to register for registration as a retailer for the purposes of this program. Wholesalers who provide SRBs to a customer to contain purchases are considered Retailers for the purpose of the program. A 'customer' may be a commercial customer or a member of the general public.

The same exemptions apply to bags used by wholesalers use to contain:

- i. *bulk items not otherwise contained in primary packaging such as nuts, grains, candy or small hardware items such as nails and bolts,*
- ii. *raw fruits and vegetables, bakery items, fresh or frozen meat, fish or poultry, or*
- iii. *prepared foods, whether hot or cold.*

Since wholesalers generally provide items to customers in larger quantities than smaller retail stores, it is understood that wholesalers may use larger bags for the exempted purposes above. Bags used solely for these purposes would therefore not be considered as SRBs. Wholesalers that provide bags to customers solely for the exempted purposes listed in (i) through (iii) are therefore not considered retailers for the purpose of the program.

For further clarity, pre-assembled hardware items such as doorknobs, light switches, etc., that are contained in primary packaging and are purchased in bulk quantities are not considered as small hardware items as listed in items (i) through (iii) above. A wholesaler providing bags for this purpose would be considered a retailer.

Wholesalers of SRBs that only distribute SRBs as a product to customer *and do not provide SRBs to contain any customer purchases* are not considered retailers for the purpose of the program.