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Ms. Tracey Spack

**RE: York Region Response – Proposed Single-Use Plastics Prohibition Regulation, Regulatory Impact Analysis Statement and draft Guidance for Selecting Alternatives**

Regional staff thank Environment and Climate Change Canada (ECCC) for the opportunity to provide feedback on the proposed Single-Use Plastics Prohibition Regulation (the Regulation), Regulatory Impact Analysis Statement (the Statement) and draft Guidance for Selecting Alternatives (the Guidance Document). Due to timing, it was not possible to bring our response to Regional Council for endorsement prior to submission. This response will be considered by Council in March 2022 and any additional comments from our Council will be communicated to ECCC in late March.

**Region staff support proposed restrictions for single-use plastics**

Staff appreciate the ECCC's action to regulate single-use plastics. Overall, the proposed direction aligns with [York Region's SM4RT Living Plan](#) focus on moving towards a circular economy. Many issues raised during the consultation process were addressed in the draft regulation. Region staff support the six plastics identified in the regulation and have several recommendations to improve the regulation and guidance documents to ensure a smooth transition. Detailed comments are provided in the attached table, as requested in the posting.

**Lack of standards and enforcement to address compostable packaging results in escalating costs to municipalities and businesses**

While staff support the proposed approach to single-use plastics, it is likely that this will result in many of these products being replaced with alternatives labelled as compostable and small to medium businesses lack the resources and capabilities of

larger corporations to validate claims and evaluate alternatives. The Statement indicates that the prohibition will treat non-conventional plastic items such as compostable plastic cutlery in the same manner as traditional plastics however there are no explicit definitions or wording in the regulation. This creates challenges with enforcement as well as additional costs to municipalities to manage these materials. As noted in the attached table, Region staff recommend defining how various alternatives will be considered under the ban as well as ensuring access to practical resources for businesses. This specific information will reduce business risk, regulatory exposure and make it easier for businesses to select suitable alternatives and avoid unintended impacts to waste management systems.

Timely federal leadership on standards for compostable products and packaging will also help to simplify implementation of the regulation. The Statement indicates standards for compostability will be addressed in the future, however staff recommend these standards be developed and implemented in tandem with these regulations. Without better compostable standards in place, we expect increased contamination in our green bin program from packaging which is not compostable using existing infrastructure. This deficit would also impact businesses who invest in alternative materials to replace the banned single-use plastics based on incomplete information. To bridge any gap in timing between the regulation and standards, it is recommended that the guidance document include clear direction on preferred alternatives for banned items. This guidance should also include information on challenges with current compostability standards.

### **Consider future regulatory action on wipes and other products incorrectly labelled as flushable**

While staff support the initial list of materials, additional action should be considered for other problematic materials, such as products incorrectly labelled as flushable e.g. wipes. Ryerson University's Flushability Lab at Ryerson Urban Water tested 23 products from southern Ontario stores labelled as "flushable" by manufacturers and confirmed they would not break down in Ontario sewer systems. Products incorrectly labelled as flushable should be considered for future regulatory action.

As seen in the [recent decision by the Competition Bureau to fine Keurig Canada \\$1 million for misleading claims on coffee pod recyclability](#), holding producers accountable for product claims on recycling or composting performance is an important first step, but regulatory action is needed. Clear standards for labelling of recyclable products were a priority identified in the Minister's mandate letter and staff recommend the scope of this labelling review be expanded to include compostable products and packaging as well as products labelled as flushable. Not addressing these issues leads to higher management costs for municipalities and confusion for many consumers.

## **Include ‘upon request’ exemption for public establishments to reduce accessibility barriers**

Removing barriers to accessibility is a priority for Ontario organizations, including municipalities and is a requirement under the *Accessibility for Ontarians with Disabilities Act, 2005*. Staff are pleased accessibility and feedback from the disability community have been considered in the government’s decision-making process and are reflected in the proposed Regulation.

Restaurants and food establishments are not included in exemptions for flexible plastic straws. While consumers may purchase flexible straws, there is an expectation that those requiring flexible straws for accessibility purposes will be required to bring their own in most public establishments. Expecting people with disabilities to bring their own flexible plastic straw may not be a feasible option for some that require accessibility supports and can be a barrier to receiving services.

Staff recommend ECCC include an ‘upon request’ (also known as an ‘ask first’ policy) exemption be put into place to allow restaurants and food or beverage establishments to provide flexible plastic straws when requested by the consumer. It is recommended that further direct consultation be completed with the disability community, including Accessibility Advisory Committees where such committees exist, to establish best practices for flexible straws, and to develop educational programs to inform establishments and communities on the importance of flexible straws for many people with disabilities. Such educational programs may help address potential stigma towards people that need to use single-use plastics.

## **Engage Public Health to facilitate safe implementation of reusable alternatives in food service settings**

Public health is supportive of the proposal to reduce single-use plastics and recognizes the positive impacts this initiative would have on both the environment and the health of Canadians. Engaging public health builds support for the implementation of desirable alternatives while addressing potential concerns regarding food handling and food safety. More research and consultation is needed to mitigate food safety concerns with allowing consumers to bring their own container to a restaurant for takeout. Consulting with public health would also provide the opportunity to identify potential impacts on source drinking water quality. A cross sector collaboration would be required to develop a comprehensive implementation plan, and new promotional activities would need to be completed in consultation with all relevant stakeholders. It is strongly recommended to engage provincial and national public health agencies, restaurant associations and food retailers to develop consistent guidance at a national level. The National Zero Waste

Council's [Opportunities for Reusables in Retail Settings During the COVID-19 Pandemic in Canada](#) could be leveraged for consultation with Public Health.

**York Region looks forward to continued engagement as the government moves forward with the approach to plastics**

Regional staff are encouraged by the government actions and commitment to achieving zero plastic waste by 2030. The Region looks forward to continued engagement in meaningful discussions to help advance these plans.

If you have questions regarding this response or would like to further discuss these recommendations, please contact Laura McDowell, Director of Environmental Promotion and Protection at [Laura.McDowell@york.ca](mailto:Laura.McDowell@york.ca).

Sincerely,

Erin Mahoney, M. Eng.  
Commissioner of Environmental Services  
The Regional Municipality of York

cc: Charles O'Hara, Director, Resource Recovery Policy Branch, Ministry of the Environment,  
Conservation and Parks  
Dave Gordon, Association of Municipalities of Ontario

**Feedback specific to the Single-Use Plastics Prohibition Regulation, Regulatory Impact Analysis Statement and Guidance for Selecting Alternatives to Single-Use Plastics**

<b>Section</b>	<b>Recommendation</b>	<b>Rationale</b>
<b>Section 1, Single-Use Plastics Prohibition Regulation</b>	<p>Include definition for single-use plastic substitutes, like compostable plastics, and identify which are covered by the regulation.</p> <p>For example:</p> <p>a) non-plastic manufactured items such as those labelled compostable or biodegradable that have a similar look and feel to conventional plastic counterparts</p> <p>b) composed of wood, paper and moulded fibre (list subject to change from time to time)</p>	<p>The Regulatory Impact Analysis Statement indicates that non-conventional plastics such as ‘compostable’ options will be treated the same as conventional plastics under the regulation. It will be difficult to enforce if this is not spelled out in the regulation with a definition of what types of substitutes are included in the prohibition.</p> <p>Items like compostable products and packaging are not compatible with current processing technology.</p> <p>Acceptable substitutes to single-use plastics need to be clearly defined to prevent greenwashing and consumer confusion in absence of national standards for these products.</p>
<b>Section 1, Single-Use Plastics Prohibition Regulation</b>	<p>Include definition of single-use plastic substitutes for reusables as an alternative that exceeds performance standards for plastic counterpart</p>	<p>Food handling practices may need to be modified where prepared foods are involved in the use of reusable substitutes for single-use plastics. Staff recommend engagement with provincial and local public health agencies and food retailers to develop consistent guidance at a national level. The National Zero Waste Council’s <a href="#"><u>Opportunities for Reusables in Retail Settings During the COVID-19 Pandemic in Canada</u></a> could be leveraged for consultation with Public Health.</p> <p>Acceptable reusable substitutes need to be clearly defined to better serve businesses through transition and compliance with the regulation. As suitable alternatives become more readily used or innovated, the list of suitable substitutes can be expanded.</p>
<b>Section 3, Single-Use Plastics Prohibition Regulation</b>	<p>Include “upon request” accessibility exemption for public establishments to sell or distribute flexible plastic straws</p>	<p>Restaurants or food establishments are not included in exemptions for flexible plastic straws and those requiring them are expected to bring their own in most public</p>

	without quantity restrictions (e.g. can provide one straw at a time)	establishments. Expecting people with disabilities to bring their own flexible plastic straw may not be a feasible option for some that require accessibility supports and can be a barrier to receiving services. Charging people with disabilities a fee to use a plastic flexible straw introduces a financial barrier and increases stigma. Staff recommend further direct consultation be completed with the disability community, such as the <a href="#">York Region Accessibility and Advisory Committee</a> to establish best practices for flexible straws.
<b>Section 6, Single-Use Plastics Prohibition Regulation</b>	Ensure record-keeping aligns with existing producer responsibility requirements.	ECCC could leverage existing reporting databases or develop a centralized database in alignment with producer responsibility reporting requirements to reduce administrative burdens on affected parties.
<b>Regulatory Impact Analysis Statement: Regulatory development, <i>Ban is not comprehensive enough</i></b>	Monitor latest research and engage with municipalities regularly to assess if additional materials meet the criteria (value recovery problematic and environmentally harmful) over time. Also monitor impacts from single-use alternatives to improve guidance on sustainable options.	Additional items should be considered in the future, such as products labelled as flushable, water bottles and hot/cold beverage cups. Science pertaining to current single-use plastics not included in the six categories needs to be monitored for impacts on pollution, landfills and the environment. Engaging with municipalities also needs to be conducted regularly to assess value recovery challenges of various materials in green bin and blue box programs. This monitoring should include impacts resulting from use of substitutes as their use increases or as new types are created.
<b>Guidance for Selecting Alternatives to the Single-Use Plastics</b>	Document uses complex language.	Intended audience is businesses and organizations providing single-use plastics to Canadian market or public. It is recommended that insider jargon used in the Regulatory Impact Analysis Statement not be repeated in the Guidance Document. Providing a rationale is appreciated, however, clear simple language would improve the ability of the public and other groups to understand the guidance. Using links to direct the reader to additional information would also streamline the document. For example, Page 4 explains the Framework;

		<p>ECCC could alternatively just refer the reader to existing resources that explore the Framework in depth.</p> <p>Page 7 refers to external guidance on preferred plastic materials. This language could be simplified and reduced to one sentence with a link to learn more.</p>
<p><b>Guidance for Selecting Alternatives to the Single-Use Plastics – Figure 1</b></p>	<p>Decision matrix is not clear and difficult to understand.</p>	<p>Replace Figure 1 with a table of suggested substitutes for single-use plastics in order of preference with their impact. If reusable alternatives are preferred, these should be listed at the top or colour coded. This could be used as a quick reference guide and limits inconsistencies from misinterpretation or misapplication of the Guidance.</p>
<p><b>Guidance for Selecting Alternatives to the Single-Use Plastics – Guidance Specific to Each SUP Subject to the Proposed Regulations</b></p>	<p>Section is text heavy and does not provide specific guidance. Case studies are useful as examples and including links to more business support tools is helpful.</p>	<p>As above, replace with a table with specific examples of substitutes and guidance with clearer understanding of the impact of the single-use plastics ban to businesses. Ensure substitutes are compatible with current processing technology for recycling and compost/anaerobic digestion.</p> <p>Small and medium businesses lack the resources and capabilities compared to larger corporations. It is recommended ECCC provide practical solutions such as incentives or access to innovative solutions to minimize additional costs, minimize regulatory exposure and reduce business risk.</p>