
From: Switzer, Barbara <Barbara.Switzer@york.ca> on behalf of Regional Clerk <ClerkGeneralLine@york.ca>
Sent: Monday, March 28, 2022 2:26 PM
To: Aurora Clerks General Inbox; Aguila-Wong, Christine; clerks@newmarket.ca; EG Clerks General Inbox; King Clerks General Inbox; Rachel Dillabough; Richmond Hill Clerks General Inbox; Vaughan Clerks General Inbox; WS Clerks General Inbox
Subject: Regional Council Decision - York Region Response Draft Federal Single-Use Plastics Prohibition Regulation
Attachments: York Region Response Draft Federal Single Use Plastics Prohibition Regulation.pdf

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On March 24, 2022 Regional Council made the following decision:

1. Council endorse comments outlined in Attachment 1, to be submitted to Environment and Climate Change Canada on March 5, 2022
2. The Regional Clerk circulate this report and submission to the clerks of the local municipalities

The original staff report is attached for your information.

Please contact Laura McDowell, Director, Environmental Promotion and Protection at 1-877-464-9675 ext. 75077 if you have any questions with respect to this matter.

Regards,

Christopher Raynor | Regional Clerk, Regional Clerk's Office, Corporate Services

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Our Mission: **Working together to serve our thriving communities – today and tomorrow**

The Regional Municipality of York

Committee of the Whole
Environmental Services
March 3, 2022

Report of the Commissioner of Environmental Services

York Region Response Draft Federal Single-Use Plastics Prohibition Regulation

1. Recommendations

1. Council endorse comments outlined in Attachment 1, to be submitted to Environment and Climate Change Canada on March 5, 2022
2. The Regional Clerk circulate this report and submission to the clerks of the local municipalities

2. Summary

On December 25, 2021, the Government of Canada published a draft of the Single-Use Plastics Prohibition Regulation and Regulatory Impact Analysis Statement in the Canada Gazette and released Guidance for Selecting Alternatives for public comment. This action was identified in a federal discussion paper outlining the proposed approach to managing plastic products that the Region commented on and updated Council in [January 2021](#). Due to timing of this federal announcement and the need for collaboration with our local municipalities on comments, staff will be submitting comments by the deadline of March 5, 2022. Through this submission (Attachment 1) staff are requesting that any subsequent comments from Regional Council be considered.

Comments on the draft regulation include input from local municipal waste staff, Region staff in Environmental Services, Economic Strategy and Community and Health Services. This report outlines the Region's comments and addresses the potential impact of the proposed approach on the community and the Region's integrated waste management system.

Key Points:

- Draft regulation bans six categories of problematic single-use plastics including plastic bags, straws, cutlery and some takeout containers
- Proposed regulation aligns with SM4RT Living direction and past advocacy efforts on single-use plastics in some areas; further exploration with impacted communities required for accessibility exemptions

- Proposed regulation lacks clarity around applicability to compostable plastic alternatives
- National labelling standards must be provided in parallel with the regulation to provide better guidance for businesses and residents seeking alternatives
- Recommendation for regular updates to the banned items list as more data and better alternatives to single-use items become available
- Impacts to Region’s waste management system may include increased contamination and management costs from increased presence of alternatives to conventional single-use plastic items

3. Background

Federal Regulation bans six categories of problematic single-use plastics including plastic bags, straws, cutlery and some takeout containers

The [draft regulation](#) follows through on the approach from the [discussion paper](#) to ban or restrict six categories of single-use plastics including checkout bags, cutlery, foodservice ware made from problematic plastics, six-pack ring carriers, stir sticks and straws as seen in Table 1. The government acknowledged there are challenges posed by compostable plastics that look like conventional plastics and intend to treat single-use non-plastic manufactured items made from compostable plastics the same as conventional plastic.

Table 1
Six categories of single-use plastics included in Federal ban

Item	Definition
Checkout Bags	Bag-shaped, designed to carry goods and provided by businesses to consumers at retail point of sale
Cutlery	Plastic formed in the shape of a knife, fork, spoon, spork or chopstick that includes biodegradable and compostable plastic
Foodservice ware made from or containing problematic plastics	Clamshell, lidded container, box, cup, plate or bowl designed to transport pre-made food and beverage items. Made from or containing: <ul style="list-style-type: none"> • Polystyrene foam • Polyvinyl chloride • Black plastic • Oxo-degradable plastics (hard, breaks easily into fragments)
Ring carriers	Plastic formed in the shape of a deformable container-surrounding bands i.e. six-pack carrier
Stir Sticks	Plastic designed to stir or mix drinks and used to stop a drink from spilling (stopper in lid)
Straws	Flexible or straight plastic drinking straw (Accessibility exemption for flexible plastic straw for specified groups and settings only)

Proposed ban on manufacture and import for sale in Canada would take effect one to two years after regulation is finalized

These six categories were selected based on the federal government’s assessment framework of whether plastic products meet key criteria of being problematic for the environment and inability to recover value once disposed. The regulation would prohibit the manufacture, import and sale of these six categories of single-use plastics, although these items can be made in or imported to Canada for the purposes of export. Other exemptions include accommodations for people with disabilities through the sale of flexible straws to specified groups. Once the proposed regulations are finalized, the following prohibitions will come into force:

1. Prohibition on sale of straws one year after registration
2. Prohibition on manufacture and import of all six categories one year after registration
3. Prohibition on sale of all other single-use plastics two years after registration

The delayed implementation allows businesses time to use up their existing supply of single-use items and identify and source suitable alternatives.

4. Analysis

Regulation aligns with past advocacy efforts on single-use plastics in some areas

Staff are generally pleased with the proposed regulation as it addresses many problematic plastics that end up as litter in our community. Many of the Region's concerns from the [consultation process](#) have been addressed. Key achievements include:

- Ban implementation and enforcement at a federal level applied consistently across the country on manufacture, import and sale for use in Canada.
- Consultation with disability community resulted in accessibility exemptions provided in regulation for care facilities and individuals to purchase flexible plastic straws.

As outlined in Attachment 1, Regional staff have recommendations to improve the regulation and guidance document provided to businesses to ensure smooth implementation of the ban once the regulation comes into force.

Proposed regulation lacks clarity around applicability to compostable plastic alternatives

The Regulatory Impact Analysis Statement acknowledges feedback from stakeholders about the challenges posed by compostable plastics that look like standard single-use items. The document notes that these items will be treated the same as conventional plastics under the regulation. However, the proposed regulation does not include definitions or wording addressing non-conventional plastics such as compostable or biodegradable plastics. As noted in Attachment 1, staff recommended adding definitions to the regulation to ensure there is clarity around what single-use alternatives (i.e. paper straw, compostable plastic cutlery) are permissible under the ban.

National labelling standards must be provided in parallel with Regulation to provide better guidance for businesses seeking alternatives

To provide clarity to residents and businesses seeking more sustainable alternatives to banned items, staff recommend that the federal government address compostable packaging standards in parallel with implementation of these regulations. The Regulatory Impact Analysis Statement acknowledged municipal request for national standards to address inconsistencies in product labelling and advertising using terms like “recyclable,” “compostable” and “biodegradable.” The federal government stated the creation of national standards are “out of scope for the current proposal but will be addressed as part of the Canada-wide Strategy on Zero Plastic Waste.” Direction to complete this work was also highlighted in the Mandate Letter for the federal Environment Minister, released in December, 2021. Neither document provides a specific timeline.

Guidance is needed as the regulation is implemented to reduce confusion and widespread contamination challenges. Region staff continue to recommend that compostable products and packaging not be considered as suitable alternatives unless producers can demonstrate their products are compatible with current processing technology or a producer-funded

alternative is in place to facilitate recovery. An updated standard and labelling requirements are needed to ensure transparency around these claims.

Regular updates to the banned items list recommended as more data and better alternatives to single-use items become available

Region staff are advocating that federal restrictions on materials not end with these six items and that additional items be considered for future regulatory action under the federal strategy on zero plastic waste. Many types of packaging or products labelled as “compostable” or “flushable” do not effectively break down when disposed and continue to pose challenges for the environment, infrastructure and processing. Staff will continue to advocate for flushable wipes and other single-use items to be addressed by the federal government to provide a consistent Canada-wide approach toward these products.

Proposed accessibility exemptions in Regulation require further exploration with impacted communities to reduce barriers

In September 2021, staff engaged the York Region Accessibility and Advisory Committee (YRAAC) to understand potential barriers from implementing voluntary single-use item reduction programs. Committee feedback included importance of some single-use items to ensure safety for people with disabilities, challenges with sanitizing reusables and stigma associated with using single-use items such as straws. Based on the direction provided, the proposed regulation addresses some concerns but requires further exploration to reduce barriers. In particular, exemptions under the proposed regulation will only allow plastic flexible straws to be sold to businesses, individuals for personal use upon request and care facilities (i.e. hospitals, long term care and care institutions). Restaurants are not included in the exemption for sale and distribution of plastic flexible straws presenting a barrier to the disability community. York Region staff recommended the regulation exempt restaurants and food establishments to allow them to provide straws to those that need them; this will help demonstrate their commitment to reducing stigma and barriers to accessibility.

Draft Guide to Selecting Alternatives aligns with SM4RT Living direction to address single-use items

The government published a draft Guide for Selecting Alternatives for Single-use plastics to aid businesses and organizations in choosing less-impactful plastics or non-plastic alternatives to the six categories. The Guide applies the 4R’s waste management hierarchy providing options to reduce and reuse ahead of recycling and recovery, including best practice options that encourage voluntary measures such as ‘ask first’ or ‘by request’ programs. This aligns with the Region’s SM4RT Living Plan direction to reduce reliance on single-use items through ‘ask first’ policies, reusable alternatives and better packaging design.

5. Financial

Impacts to Region's waste management system may include increased contamination and management costs from alternatives to single-use plastics

The Regulatory Impact Analysis Statement suggests that while the proposed regulation would prevent single-use plastics from entering waste streams or ending up as litter, municipalities should expect increased alternative packaging, such as compostable plastic cutlery, compostable coffee pods and paper or compostable take-out containers, being placed in the green bin or blue box. Unfortunately, many items in the marketplace currently labelled as compostable cannot be processed through the Region's green bin program.

The impact to York Region's waste management budget is unclear. Some costs may be offset from producer obligations under the Blue Box program once it fully transitions in late 2025, and some material may be captured in commercial waste systems that service businesses such as restaurants. Voluntary waste reduction measures such as 'ask first' policies that let the customer decide if they need single-use items and offering reusable alternatives may also mitigate impacts. However, without clearer guidance around preferred alternatives to single-use plastics, it is likely that more businesses will switch their conventional single-use plastics with "compostable" alternatives, increasing their presence in the green bin program through food takeout or retail purchases. This will impact future budgets and tonnages and may increase residue rates in green bin systems or impact the quality of compost end products.

6. Local Impact

Region and local municipalities developing supports to help businesses, residents and local accessibility organizations adapt to the Regulation

Local municipal partners in consultation with the Region have developed a business engagement strategy with implementation pending COVID restrictions. The Region and local municipalities will leverage findings from business engagement and the federal Guide to develop resources to support businesses. These resources will assist in compliance with the regulation and help to voluntarily reduce more single-use items through 'ask first' policies or offering reusable alternatives. Consultations are continuing with the disability community in 2022 to incorporate their perspectives in future public and business communications and education plans. Staff expect to begin implementing single-use items reduction programming with residents and businesses later in 2022.

7. Conclusion

The federal ban is an important step forward in reducing plastic waste and pollution and driving the transition to a circular economy. The Region and its local municipal partners will remain engaged in federal government consultations throughout the process and continue collaborating on supports for York Region businesses and residents. Region and local municipal staff will implement education and enforcement efforts. This will provide clear direction to residents on proper curbside set out for alternative packaging and minimize impacts to our integrated waste management system.

For more information on this report, please contact Laura McDowell, Director, Environmental Promotion and Protection at 1-877-464-9675 ext. 75077. Accessible formats or communication supports are available upon request.



Recommended by:

Erin Mahoney, M. Eng.
Commissioner of Environmental Services



Approved for Submission:

Bruce Macgregor
Chief Administrative Officer

February 9, 2022
Attachments (1)
eDOCS#13668981



March xx, 2022

Tracey Spack
Director, Plastics Regulatory Affairs Division
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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.

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

Section	Recommendation	Rationale
Section 1, Single-Use Plastics Prohibition Regulation	<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. Items like compostable products and packaging are not compatible with current processing technology. 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>
Section 1, Single-Use Plastics Prohibition Regulation	<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 <u>Opportunities for Reusables in Retail Settings During the COVID-19 Pandemic in Canada</u> 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>
Section 3, Single-Use Plastics Prohibition Regulation	<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 York Region Accessibility and Advisory Committee to establish best practices for flexible straws.
Section 6, Single-Use Plastics Prohibition Regulation	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.
Regulatory Impact Analysis Statement: Regulatory development, <i>Ban is not comprehensive enough</i>	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.
Guidance for Selecting Alternatives to the Single-Use Plastics	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>Guidance for Selecting Alternatives to the Single-Use Plastics – Figure 1</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>Guidance for Selecting Alternatives to the Single-Use Plastics – Guidance Specific to Each SUP Subject to the Proposed Regulations</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>