



# ST. JOHNS PACKAGING LTD.

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**RE: Response to the Government of Canada's proposed order adding "plastic manufactured items" to Schedule 1, the List of Toxic Substances, under the Canadian Environmental Protection Act (CEPA) published on October 10, 2020 in Canada Gazette, Part I, Volume 154, Number 41.**

Mr. Kruidenier,

Founded in 1954, St. Johns Packaging Ltd. is a vertically integrated manufacturer of flexible packaging products that are sold to leading food and consumer product companies. We are a member of the Chemistry Industry Association of Canada (CIAC), the Association for Canada's chemistry and plastic sector leaders, innovators, solution providers, and world-class stewardship pioneers.

We are committed to developing sustainable and economically viable flexible packaging solutions that reduce plastic and food waste. In fact, 100% of the flexible packaging products (mainly polyethylene wicket bags) we manufacture and sell in Canada are recyclable. We are also proud members of the Sustainable Packaging Coalition and the Flexible Packaging Association. Moreover, we are continuously working towards reducing the environmental footprint of our manufacturing processes and improving our energy efficiency.

We appreciate the opportunity to respond to the Government of Canada's proposed order adding "plastic manufactured items" to Schedule 1, the List of Toxic Substances, under the Canadian Environmental Protection Act (CEPA), published on October 10, 2020 in Canada Gazette, Part I, Volume 154, Number 41.

We are convinced of the role of plastic packaging to fight food waste and to minimize the avoidable losses of natural resources regarding food production in Canada. We acknowledge the urgent need for a profound transformation of the Canadian plastic's valorisation infrastructures. We welcome the opportunity to work with the government on building the circular economy the Canadian plastics industry needs. We strongly believe it is possible to combine an efficient use of resources and plastic waste management incentives in every step of the plastic items life cycle to create a sustainable and prosperous future for the plastic producers and manufacturers.

Nevertheless, we do not support the Government of Canada's proposed order adding, "plastic manufactured items" to Schedule 1, the List of Toxic Substances, under the CEPA.

St. Johns Packaging Ltd. believes designating plastic manufactured items as "toxic" without a proper risk assessment undermines:

- The principles of Canada's risk-based management system for chemical substances under CEPA.
- The legal definition of the term "toxic", which is currently applied to a substance whose toxicity is clear and well established among the Canadian population, fellow jurisdictions and scientific community.
- The work undertaken by industry, provincial governments and municipalities to increase the collection and recycling of plastics.

We urge the government to:

- Undertake a more thorough assessment of the science and consequent risks relating to specific substances before developing or implementing any risk-mitigation measures under CEPA.
- Reconsider the legal status “toxic” for “plastic manufactured items” due to its significant departure from the precedence established for managing chemically distinct substances under CEPA.
- Continue to work with stakeholders, the provinces and territories to build a circular economy framework that identifies the most effective actions to achieve zero plastic waste.

The following outlines our concerns with the proposed order to add “plastic manufactured items” to Schedule 1.

#### **Proposed Addition to Schedule 1, Broad Target under Proposed Order**

We believe the well-established risk assessment pathways under CEPA and the CMP are rigorous and scientifically sound. This chemical management policy framework needs to be upheld for the CMP to remain credible.

The proposed approach regarding plastic manufactured items raises the following concerns:

- Schedule 1 would create an extremely broad target, capturing all plastic items, including electronics, automotive parts, construction materials, personal protective equipment and food packaging approved by the Food Directorate’s Bureau of Chemical Safety.
- Adding chemically inert plastic items that the government says are safe for food packaging to a list of substances that have undergone risk assessments and determined as toxic will undermine the integrity of Canada’s chemicals management system and create confusion among stakeholders and the public.

#### **Final Science Assessment of Plastic Pollution, Data Gaps**

St. Johns Packaging Ltd. agrees with:

- ECCC’s characterization of the Final Science Assessment of Plastic Pollution as “a review of the current state of the science on plastic pollution.”
- ECCC acknowledges the Science Assessment is “not intended as a substitute for a chemical risk assessment” and that “typically a chemical risk assessment is conducted to assess the potential for risk to the environment and human health associated with the substance.”
- ECCC says in its online fact sheet that a state of the science report consolidates the latest environmental and health research on a substance and “does not typically include a regulatory conclusion on the substance.”

Additional study is required to determine the scientific factors and consequent risks associated with specific substances before any risk management actions should be taken.

- The Science Assessment outlines “significant data gaps currently exist that preclude the ability to conduct a quantitative risk assessment, including a lack of standardized methods for monitoring microplastics and characterizing the environmental and human health effects of plastic pollution, as well as inconsistencies in the reporting of occurrence and effects data in the scientific literature.”
- The recommendation that “action is needed to reduce macroplastics and microplastics that end up in the environment” applies too broadly and generally to plastics to provide clear direction on risk-mitigation measures.



- Rather than pursuing specific forms of risk management, the proposed order, if implemented, could be used to “manage plastic manufactured items along their entire lifecycle.”
- Risks must be clearly defined through a proper risk assessment so that cost-effective management strategies and actions can be undertaken.

### **Precautionary Principle, Risk Assessment**

Precautionary principle.

- The precautionary principle defined in the Rio Declaration, states, “Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.”
- Under section 76.1 of CEPA, the Environment and Health Ministers are required to apply both a weight of evidence approach and the precautionary principle when conducting or interpreting the results of assessments and decisions of other jurisdictions.
- According to ECCC’s A Framework for the Application of Precaution in Science-Based Decision Making about Risk, the use of precaution affects “decision phases within science-based risk management” and is “clearly linked to scientific analysis, and cannot be applied without an appropriate assessment of scientific factors and consequent risks.”
- The Science Assessment recommends taking action to reduce macroplastics and microplastics that end up in the environment, in accordance with the precautionary principle, yet, as mentioned, it concedes “significant data gaps” regarding microplastics are preventing the completion of a quantitative risk assessment for some plastic manufactured items.

The precautionary principle has been applied inappropriately.

- A risk assessment has not been completed.
- The evidence has not yet established a clear link between the Science Assessment and the decision to list all plastic manufactured items on Schedule 1.
- The evidence does not support why such a broad listing is required.

### **Treaty Obligations and Trade**

Parties to the Canada-United States-Mexico Agreement (CUSMA) agreed to a risk-based approach to chemicals management.

- CUSMA Sectoral Annex 12A.4.3, each party has agreed it “shall endeavor to use a risk-based approach to the assessment of specific chemical substances and chemical mixtures, where appropriate. Each Party also intends to encourage, as appropriate, a risk-based approach to regulating chemical substances and chemical mixtures both in international fora and in its relations with non-Parties.”
- If the government pursues product bans, any policies or regulations must provide exemptions for importing materials, manufacturing plastic items and exporting those products to other markets.
- Doing otherwise would be inconsistent with Article 2.2 of the TBT Agreement, which requires “that technical regulations are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade.”

The government has already proposed to ban six categories of single-use plastics, yet it remains unclear how many more plastic items will be banned once plastic manufactured items have been added to Schedule 1. It also remains unclear on which scientific or legal basis the government will assess these future plastics items.

In conclusion, St. Johns Packaging Ltd. is against the Government of Canada's proposed order adding "plastic manufactured items" to Schedule 1, the List of Toxic Substances, under the Canadian Environmental Protection Act (CEPA), published on October 10, 2020 in Canada Gazette, Part I, Volume 154, Number 41 and expresses the following concerns:

- The government undermines the importance of a risk-based analysis regarding the toxicity of plastic manufactured items.
- The addition of all plastics item to Schedule 1 is too broad and is an immediate threat to the food packaging industry who counts on plastic items to offer safe and reliable packagings to its consumers and to fight food waste reduction.
- The lack of scientific evidence does not support the addition of all plastic items to Schedule 1.

We recommend that the Government of Canada conduct a thorough assessment of the underlying risks associated with specific substances to identify and evaluate appropriate, targeted, cost-effective measures to manage those risks. We also suggest that the government evaluate the possibility to create a new list of substances under the CEPA which can help to characterize substances that are detrimental to the environment, but not toxic under section 64 of the CEPA.

Sincerely,



Marc Leclair  
President and Chief Executive Officer  
St. Johns Packaging Ltd.