



**SUBMISSION TO THE HOUSE OF COMMONS STANDING COMMITTEE ON  
ENVIRONMENT AND SUSTAINABLE DEVELOPMENT**

**REVIEW OF THE  
*CANADIAN ENVIRONMENTAL PROTECTION ACT, 1999***

By the  
**CANADIAN VEHICLE MANUFACTURERS' ASSOCIATION**

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## INTRODUCTION

The CVMA is the industry association which for 90 years has represented the leading manufacturers who assemble vehicles here in Canada. Our members are FCA Canada Inc., Ford Motor Company Canada, Limited and General Motors of Canada Company; together these companies are responsible for approximately 60% of Canadian auto production<sup>1</sup>. The automotive manufacturing sector is a key driver for Canada's economy contributing significantly to our nation's manufacturing GDP, accounting for 115,000 direct jobs and in total some 500,000 direct and indirect jobs across Canada<sup>2</sup>.

The automotive industry operates in a highly integrated North American market continues to be one of the most successful trade sectors in the world. Automotive trade accounts for more than 20% of the total trade between Canada and the U.S. with both markets largely having very similar driving conditions, infrastructures, environment, and public policy objectives. Vehicles and auto parts are designed, tested and produced seamlessly on both sides of the border for use and sale in either market. This means that one set of aligned requirements in Canada and U.S. are tested to a common set of protocols and certified once for sale and registration across one integrated U.S. and Canadian market. This results in real value for consumers by ensuring that new and more advanced technologies are introduced to the market (Canada and U.S.) more quickly, with greater choice, at lower cost to consumers through leveraging larger economies of scale. It also means that manufacturing plants which operate on both sides of the border, are competing for capital, investment and new product mandates, with jurisdictions in the U.S. Midwest and Southern states.

The CVMA creates the framework within which the member companies work together to achieve shared industry objectives on issues such as consumer protection, environmental sustainability, energy, and vehicle safety. The *Canadian Environmental Protection Act, 1999* (CEPA) is of importance to the CVMA and its members given the numerous touch points of the Act with our products and manufacturing operations. Areas of CEPA with direct impact on our members include vehicle and engine emissions, supporting fuels, information gathering, chemicals management, movement of wastes and International Agreements.

Our members have extensive experience with CEPA 1999. New motor vehicle and engine emissions and fuel requirements are administered under CEPA 1999. CVMA members are users and purchasers of a large number of chemicals and materials which are supplied domestically or imported from around the world for the purpose of vehicle assembly and the manufacturing of parts and components in Canada. Many of the chemical related provisions under CEPA, the current chemical management plan activities, as well as the information gathering requirements such as the National Pollutant Inventory (NPRI) apply to our members operations.

By way of context, a typical vehicle manufacturer uses materials and parts which may require the use of over 10,000 chemicals supplied by over 1,000 Tier 1 suppliers. Across all tiers, there are over 100,000 suppliers globally. These substances and materials are used in Canadian and U.S.

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<sup>1</sup> Polk, August 2016

<sup>2</sup> Center for Automotive Research, January 2015

manufacturing facilities in the production of finished vehicles sold and serviced in both markets. It is important to mention that our members are also governed by provincial legislation as it relates to the construction and operation of manufacturing facilities and the operation of in-use motor vehicles (cars and trucks).

The Canadian Vehicle Manufacturers' Association (CVMA) is pleased to provide the following comments with respect to the 2016 Parliamentary Committee Review of the *Canadian Environmental Protection Act 1999* (CEPA 1999).

## **1. REDUCING AIR POLLUTION AND GREENHOUSE GAS EMISSIONS**

Automotive technology is advancing at an unprecedented pace. Cleaner and more fuel efficient vehicles are being brought to market in an ever increasing array of models and numbers to keep pace with market demand and comply with the federal regulations.

The Government of Canada has made significant revisions to a number of extremely stringent regulations under CEPA to address motor vehicle emissions on a national basis including:

- On-Road Vehicle and Engine Emission Regulations – Tier 2 – 2004-2016 model years
- On-Road Vehicle and Engine Emission Regulations – Tier 3 – 2017-2025 model years
- Passenger Car and Light Duty Truck GHG Emission Regulations – 2011–2016 model years
- Passenger Car and Light Duty Truck GHG Emission Regulations – 2017–2025 model years
- Heavy-duty Vehicle & Engine GHG Emission Regulations – 2014–2018 model years
- Heavy-duty Vehicle & Engine GHG Emission Regulations – 2019–2027 model years (in development).

Our record as an industry is unmatched in the reduction of criteria or smog-causing emissions since the first emission controls systems in the 1960's and we are applying the same successful approach to greenhouse gas emissions reduction.

Today's Tier 2 vehicles are over 98.8% cleaner than those in the pre-control era and the newly introduced Tier 3 vehicles will be even cleaner with a further 80% reduction in emissions from the current Tier 2 standards resulting in virtually zero vehicle-related smog-causing emissions by 2025. The unprecedented stringency of the 2012-2025 model year (MY) GHG standards will require manufacturers to spend an estimated \$200 billion U.S. dollars in advance vehicle technology development focused on vehicle GHG reductions. These regulations require manufacturers to adopt a multi-technology and fuels pathway for compliance in which electric vehicles, plug-in hybrid and battery electric, will become increasingly more prominent during this period of rapid technology deployment of new fuel consumption and GHG reducing technologies. Through an unprecedented 3% to 5% year over year improvement requirement, 2025 model year (MY) light duty vehicles are projected to consume 50% less fuel than 2008 MY vehicles. From 2011 MY, the industry's efforts will result in an estimated cumulative reduction of 266 mega-tonnes (Mt) of carbon dioxide equivalent (CO<sub>2</sub>) GHG emissions from the LDV fleet on a national basis. To put this into perspective the annual year over year improvement prior to this regulation averaged from 1.1% to 1.3% per year. ECCC's September 2016 Greenhouse Gas Emissions Performance for the 2011 to 2014 MY Light-

Duty Vehicle Fleet Report shows that the industry is delivering the required reductions in GHGs under these regulations today.<sup>3</sup>

Also, given that the government has set the foundation of regulatory alignment with the U.S. in this area along with the necessary processes to ensure that the stringent requirements are met, this established approach needs to be maintained for future planning and continuing delivery of environmental and consumer benefits across Canada. This approach is also consistent with the Canada-U.S. Regulatory Cooperation Council (RCC) objectives which recognizes both the highly integrated nature of the U.S. and Canadian auto industry and the environmental and cost benefits of regulatory alignment derived from including the economies of scale associated with the larger North American market.

#### **Vehicle Related Matters: Items for Committee Consideration:**

- Respecting the scope of the Act related for vehicles, engines and equipment for which standards can be established, CVMA supports the implementation of emissions regulations that are harmonized with the U.S. Environmental Protection Agency (EPA) [light and heavy duty vehicles] and to allow the importation and sale of EPA certified engines of all classes for all purposes. Alignment and recognition of the U.S. emissions related requirements for vehicles, engines and fuels is essential in our integrated industry.
- On providing a more flexible framework for managing temporary vehicle importation for testing and evaluation purposes, we support the implementation of greater flexibility measures as it will assist in streamlining the process and eliminating the need to export or scrap all vehicles that are imported for such purposes. Section 155 of CEPA is limiting and does not provide the necessary flexibility to allow for time extensions, vehicle donations to educational institutions for student learning or allow the OEM to make the vehicles compliant to emission regulations while remaining in Canada.
- We recognize that Environment and Climate Change Canada (ECCC) has expressed interest in strengthening the Notice of Defect provisions whereby the CEPA Notice of Defect (NoD) powers would include the authority to require labelling, the manufacturer to cover cost of emissions recalls, and the ability to order a notice of defect. In these areas, we support a harmonized approach with provisions of the U.S. EPA given the alignment on emission regulations not with the Canadian Motor Vehicle Safety Act (MVSA). The MVSA deals with immediate risks to the safety and health of Canadians whereas CEPA deals with the longer term health and environmental risks. This distinction is important and therefore does not support alignment of CEPA, Division 5 with the MVSA. In addition, it would not be appropriate for the regulatory authority in CEPA to override or be inconsistent with an EPA certificate. All potential emission defect measures taken in Canada on EPA certified products must be handled consistently on a North American basis.

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<sup>3</sup> Greenhouse Gas Emissions Performance for the 2011 to 2014 Light-Duty Vehicle Fleet, September 2016. <http://ec.gc.ca/lcpe-cepa/default.asp?lang=En&n=7054AE89-1>

- We support the provision of appropriate consumer information. The proposal to expand the authority to regulate fuels with respect to fuel dispenser labelling, regulate fuel composition and remove the requirement to demonstrate “*significant*” contribution to prevention of pollution appears to be appropriate. Any messaging with respect to pump labelling should be subject to consultation with all stakeholders, should this expanded authority be considered. As vehicle emission and engine control technologies and fuels operate as an integrated system, which is recognized by ECCC in their regulatory development, we support the approach of ensuring that the quality of all fuel delivered to the vehicles at the retail end of the distribution system meets all appropriate fuel standards required by the existing Canadian fleet of vehicles and future vehicles so that their advanced technologies will operate as intended. We are supportive of regulating fuel parameters on a national level such as detergency, as well metal additives that can cause increases in vehicle emissions.

## **2. PROTECTING CANADIANS FROM TOXIC SUBSTANCES AND LIVING ORGANISMS**

CVMA members are environmental leaders and continue to take actions aimed at reducing the environmental impact of their manufacturing operations and products. Our members have made significant progress in reducing volatile organic compound (VOC) emissions from assembly plants, developing and implementing manufacturing pollution prevention activities, diverting more than 85% of their waste with a zero waste to landfill objective, and being leaders in energy conservation and efficiency. As early adopters of Environmental Management Systems in North America, the ISO 14001 certified systems in place at automotive facilities are fully integrated into their overall processes.

With regard to CEPA and chemical use, the auto industry is engaged in and impacted by various aspects related to the assessment and management of chemicals:

- information gathering,
- risk assessment,
- risk management development and implementation,
- compliance promotion,
- enforcement,
- monitoring and
- research.

The auto industry also works extensively with its suppliers on a global basis to obtain information on substances in process chemicals and in manufactured items. The information is provided primarily through the Safety Data Sheets (SDS) and a global database on manufactured items. Both systems are populated with information provided by the supply base. This information is used by the auto industry to report to government during chemical assessments as well as in the consideration of risk management. Inherent limitations exist with both systems.

In chemical risk assessment and management, it is essential to have a widely coordinated effort amongst jurisdictions (North American and internationally) to ensure that the global supply base is

engaged in chemical management. When considering risk management actions under CEPA, chemical management needs to be examined from a broader context. It is important that any risk management approach to chemicals be coordinated first between Canada and the U.S. to avoid unintended negative consequences given the highly integrated nature of the industry.

### **Manufacturing and Product Related Chemical Matters: Items for Committee Consideration:**

- We support CEPA having authorities to update the Domestic Substances List (DSL), however; CVMA has concerns with the express authority to remove a substance when it is not in commerce unless there are defined processes and consultation requirements that ensure that accurate information has been obtained to substantiate the understanding that a substance is truly not in commerce. Currently, the DSL Inventory Update (DSL IU) is a one method to determine the commercial status of a substance for a given year (a snapshot). This does have some limitations. For example, the survey threshold may not be aligned with commercial use information. If there is a desire to remove substances from the DSL, then a robust process needs to be put in place to ensure that sufficient information is collected regarding the in-commerce status of a substance below 100 kilograms per year.
- With respect to strengthening the Significant New Activity Provisions (SNAC), we do not have concerns with CEPA having explicit powers for downstream notification requirements for significant new activities regarding substances that are on the DSL as this change would be consistent with the Significant New Use Activity (SNUR) notification requirements in the U.S.; this is currently being examined under the RCC Chemical Management workplan.
- We support CEPA being amended to create a more functional regime for managing persistent, bioaccumulative and toxic substances with Schedule 1 being divided into two parts. The mechanics and functionality of how it would work would need to be properly addressed and communicated.
- While we understand the need to expand the risk management toolbox and support allowing risk management obligations to be fulfilled with performance agreements and the Best Placed Act. However, we are concerned with establishing a Toxic Substances with Restricted Activities (TRSA) list or expanding the use of Ministerial Conditions to existing substances. The government should be cautious about having multiple tools performing similar functions. As chemical management requirements in Canada are communicated to the global supply chain, regulations and SNACs which already manage or minimize the use of a substance, the addition of another set of conditions potentially creates confusion and difficulties in communication. Should restrictions be needed on certain uses, then regulatory instruments in CEPA such as regulatory prohibitions or SNACs would be better to use in this regard.

### **3. INFORMATION GATHERING PROVISIONS:**

CVMA members report to the National Pollutant Release Inventory (NPRI). As currently written, CEPA has extensive information gathering powers. This permits the collection of information for the

NPRI information. The objectives and purpose which were established when the NPRI was first put in place remain valid today.

Changes to CEPA with respect to these information gathering provisions that would modify NPRI should not be made without a full evaluation of any specific concerns associated with the NPRI program and its partners. NPRI is a pollutant release inventory and needs to remain as such and should not be expanded beyond its original intent. Inclusions or changes to the NPRI will likely increase the reporting burden for companies even today. NPRI-related information provided to the public needs to continue, but should be provided with the appropriate context.

On the issue of facilitating administration of information gathering authorities, we recognize the need for having clear and consistent time frames for the maintenance and retention of records related to the various instruments. However, we are not supportive of obligating those reporting to maintain information on substances collected through the Section 71 notices or DSL IU updates given that they are only a snapshot in time. The requirement to keep information up to date needs to be carefully considered and should be limited to “tombstone-type” information for survey requests.

#### **4. OTHER CEPA MATTERS:**

With regard to the review of CEPA, we are supportive of changes to the frequency of the Parliamentary reviews. A review every 10 years is appropriate.

CEPA currently includes a broad array of effective regulatory enforcement mechanism including inspections, compliance orders, tickets, offences and environmental protection alternative measures. With respect to lowering the preconditions for the public to initiate environmental protection actions, we would recommend retaining the test for significant harm to help minimize the risk of unnecessary and/or frivolous litigation. Under the provision, an individual is first required to apply for an investigation. Prior to consider changing the preconditions, an assessment also should be done as to the extent of investigations and the outcomes of such investigations.

Also, we would suggest that the definition of substance be amended to remove part (f) as it relates to products.

#### **CONCLUSION:**

CVMA appreciates the opportunity to submit our views on the CEPA Review to the Committee. The legislation remains valid and functional today and is sufficiently flexible to address emerging issues. Regulatory certainty is needed by industry on the CEPA requirements to enable protecting the environment while also supporting the Canadian economy.

We urge the Committee in the CEPA Review deliberation to recognize and consider balancing both the environment/human health and economics.