



**Canadian Vehicle
Manufacturers' Association**
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des constructeurs de véhicules

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Ms. Melissa Ollevier
Senior Policy Advisor
Air Policy Instruments and Programs Design Branch
Climate Change and Environmental Policy Division
Ministry of the Environment and Climate Change
77 Wellesley Street West, 10th Floor
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Toronto, ON M7A 2T5

Subject: EBR Registry Number: 012-6844 - Climate Change Mitigation and Low-Carbon Economy Act, 2016 – CVMA Comments

Dear Ms. Ollevier:

The Canadian Vehicle Manufacturers' Association (CVMA) representing FCA Canada Inc., Ford Motor Company of Canada Limited, and General Motors of Canada Company appreciates the opportunity to review and comment on the Climate Change Mitigation and Low-Carbon Economy Act, 2016 (Bill 172). Our comments on the proposed legislation follow. Honda of Canada Mfg. and Toyota Motor Manufacturing Canada Inc. share our views and support this letter. This letter represents the views of all of the vehicle manufacturers operating facilities in Ontario.

We acknowledge the government direction on reducing carbon emissions and support a broad based, economy-wide approach. It is best applied at the national or international level. Vehicle manufacturers have a long track record of taking action to reduce energy consumption and reducing greenhouse gas (GHG) emissions. The companies have mature energy programs in place and are leaders in reducing their carbon footprint through investment in new processes, energy conservation and waste diversion. The five vehicle manufacturers have outlined publicly their company-wide targets to reduce GHG and/or energy intensity, ranging from 1% to 3% per year, reaching out to the 2020-2025 timeframe.

We recognize that Bill 172 is part of the government's overall approach towards transitioning to a low carbon economy and that it establishes a long-term framework for climate action including Ontario's targets for GHG emissions reduction, development of the climate change action plan, and the establishment of Ontario's cap and trade program.

In moving to establish the cap and trade program, the government and the Ministry must balance the economic importance of key manufacturing sectors, while ensuring reductions in greenhouse gas emissions. Specifically for the vehicle manufacturing sector, key elements must be addressed and included in the cap and trade program. They are as follows:

1. Designation of the sector (including Ontario's auto supply chain) as high risk for carbon leakage as a result of being very trade exposed

The government has already acknowledged that the auto manufacturing sector is a high risk for carbon leakage and must be designated as highly trade exposed given that more than 97% of assembled vehicles manufactured are exported outside of Ontario. This designation in the regulations is essential for production mandate considerations in the long term.

2. A cap reduction factor of 1% that recognizes auto's past performance and realistic future targets

As mentioned above, the industry has been proactively reducing energy use and improving energy efficiency from its operations for more than four decades. Given its leadership over the years and continuous progress, there currently remain limited technological opportunities for large emission reductions in the auto sector. The 5% cap slope proposed is not achievable with known technology. Because benchmarking based on product output was not proposed for motor vehicle manufacturing, the only practical way recognize the long history of early reductions is to provide a more achievable cap slope. A target of a 1% cap slope is reasonable for motor vehicle manufacturing for this reason and must be reflected in the cap and trade program.

3. Mitigation of Energy pass through and other costs for the Industry and the Supply Base cost increases and impacts.

Under the cap and trade program, the government must ensure that the cost of electricity does not increase from passing through the cost of carbon to trade exposed sectors such as motor vehicle manufacturing.

It is encouraging that the government committed in the 2016 budget *"to take steps to ensure that the net impact of cap and trade would not result in an overall increase in electricity costs for commercial and industrial consumers...."*

The direct and indirect energy cost impacts compounding through the automotive supply chain needs to be addressed through revenue recycling for efficiency projects and other means to ensure that this trade exposed sector also remains viable in Ontario. Greater clarity is needed around the cost of electricity and offsetting measures supporting the supply base. These offsetting measures need to take into account the increased cost of transportation of raw materials, components and finished products.

Our detailed comments on the Bill are outlined in the Attachment. As the industry works on a longer time frame (10 years or so) with regard to planning and investments, it is important that the cap and trade program addresses each of the key elements outlined above beyond the current 2020 timeframe in order to support Ontario businesses in having clarity with regard to maintaining their production mandates and investments.

We trust that our comments will be considered as the Bill moves through the Legislative process and the cap and trade program regulation development. Vehicle manufacturers wish to work with the government on its overall approach on reducing GHG emissions including the

implementation and final design of the cap and trade program that effectively reduces GHG emissions while supporting competitiveness and attracting investment.

Yours sincerely,

A handwritten signature in black ink that reads "Yasmin Tarmohamed". The signature is written in a cursive, slightly slanted style.

Yasmin Tarmohamed
Vice President, Environment, Health and Safety

Attachment

cc: P. Evans, MOECC
R. Fleming, MOECC
A. Wood, MOECC
H. Pearson, MOECC
J. Espie, MOECC
C. Finley, MEDEI
N. Daube, Ministry of Finance
A. Bevan, Premier's office
G. McEachern, Premier's office

ATTACHMENT
CVMA Detailed Comments
Bill 172,-Climate Change Mitigation and Low-Carbon Economy Act, 2016

GREENHOUSE GAS (SECTIONS 5-13)

Emission Reduction targets and interim targets

We recognize that Section 6 of Bill 172 establishes and outlines the GHG emissions reduction targets from a 1990 baseline and that Section 6(2) allows the Minister to increase the GHG targets but not reduce them and is likely a result of the Paris Agreement. However, we are concerned that Section 6(2) could be very limiting for the government, industry and the economy. A provision should be added to address unforeseen circumstances where the targets may need to be adjusted and/or reduced.

Climate Change Action Plan

While it is positive that the action plan is required to be prepared by the government and must be reviewed, we are concerned that Section 7(7) indicates that the plan can be revised at any time. We recommend that any revisions, whether or not following a review, should also have to go before the Assembly and be made available to the public.

The Bill is unclear whether a revision of the climate change action plan is a proposal for a policy consideration under Section 15 of the Environmental Bill of Rights (EBR), and would be need to be posted on the EBR for review and comment. We are of the view that it should be posted on the EBR for review and comment and not solely as an information posting.

Duty to quantify emissions

We are concerned that the language in Section 9(4), Same, direct and indirect links, is very open ended. While we recognize that the empowerment is to support the application of cap and trade provisions to fuel distributors, the language should clarify why the Director would refuse an applicant and whether or not there is an appeal process.

Duty to report

Section 10(4), Contents, applies to reports and in addition to prescribed information, includes such additional information as the Director may request. This is a broad discretion that should be deleted. The reporting standard should be the same for all participants and set out in regulation.

We note that Section 12 gives the Director a broad power to ask a person to provide information within a period of time specified by the Director to assess whether a person may be required to comply with section 9, 10, or 11 of the Bill. This power again is very broad and the time line to respond could be short which may prevent appropriate response.

THE CAP AND TRADE PROGRAM (SECTIONS 14-20) & ACCOUNTS AND TRANSACTIONS (SECTIONS 21-28)

Several sections of the proposed legislation give the Director the authority to act towards different participants at his/her own discretion, with no guarantee of equal treatment among participants, through such actions as additional information requests of application approvals. The approaches are subjective and should be deleted or alternatively, the context for this authority should be provided to stakeholders. The sections of concern are:

- *Mandatory participants: registration: Section 15(3), 16(3), 17(2), and 23(3)*
- *Voluntary participants: registration: Section 16(5), 17(4), and 23(5)*
- *Conditions of Registration: 18(3) and 20(6)*
- *Registered participants' cap and trade accounts: Section 22(3)*
- *Automatic Suspension: 24(7) and 25(4)*

CAP AND TRADE ACCOUNTS AND TRANSACTIONS (SECTIONS 21-28)

Authority of Minister, Director re: Accounts

Section 26(3) enables the Minister or Director to remove allowances and credits from accounts without notice or consent. We suggest that a provision be added so that, at least, a notice is required; this is not unreasonable and ensures that the participant is aware of the change.

EMISSION ALLOWANCES AND CREDITS (SECTIONS 29-37)

Auction or sale of Ontario emission allowances

Section 31(6) states that no person shall disclose whether or not the person is participating in an auction. While this requirement appears to be aimed at preventing insider trading, it is not appropriate for the Act as it is very vague.

It would be more useful if this requirement is included in regulation with more detail on defining disclosure. A person should be able to disclose the aforementioned information to related entities, as required, for example from a business "need to know" and to advisors.

Offset initiatives: registration

Section 33 appears to grant a broad discretion to the Registrar of the Registry regarding information to be provided to refuse registration or set conditions. The process must be transparent and the conditions should be clearly defined.

Actions not invalid

Section 37 indicates that a failure by the government to act in accordance with the requirements of the Act does not invalidate the creation or distribution of Ontario emission allowances. We recommend that the provision be clarified such that government should correct the omission or error immediately in order to be consistent with the government commitment to be open and transparent.

ENFORCEMENT (SECTIONS 47-56)

Some of the fines set out in Sections 47(3), 47(4) and 47(5) are very onerous and should only apply to market manipulation (Section 28). Other items including the failure to submit allowances and credits should be removed. The Court already has the discretion to apply a fine to consider any monetary benefit accrued and to order restitution. In addition, a Court could consider previous convictions under other legislation. At most, consideration should be given to such previous convictions within a limited time period such as two years (Section 49).

GENERAL (SECTIONS 68-77)

In Section 68, we recommend that the amounts drawn be directly related to greenhouse gas reduction initiatives and not for administration matters.

Section 77(2) repeals Subsections 176.1(4) to (9) of the *Environmental Protection Act (EPA)*. The rationale and legal implications for repealing these sections of the EPA are unclear. We wish to have some further discussion on the implications of repealing these provisions.

SCHEDULE 1- GREENHOUSE GAS REDUCTION ACCOUNT

It is encouraging that Schedule I outlines initiatives that may be funded from the Greenhouse Gas Reduction Account. However, as written, it limits the types of initiatives that can receive funding from the Greenhouse Gas Reduction Account. It would be beneficial to clarify in the Schedule that proceeds can be used to ensure that there is no net increase in electricity costs as recently outlined in the 2016 provincial budget. It would also be beneficial to allow the account to be used for any novel way of reducing GHGs beyond those specifically listed.

OTHER – CAP AND TRADE ADMINISTRATION

The Ontario government needs to ensure that the administrative requirements under the cap and trade regime be held to a minimum and to not impose undue administrative burden on the regulated community.