Canadian Manufacturers & Exporters
Ontario

Bill 167, Toxics Reduction Act, 2009

Presentation to the Legislative Assembly of Ontario

Standing Committee on General Government

by Canadian Manufacturers & Exporters

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Canadian Manufacturers & Exporters appreciates the opportunity to present the views of its members before this Standing Committee on the proposed Toxics Reduction Act, 2009, Bill 167.

Manufacturing is the single largest business sector in Canada and in Ontario. It directly accounts for 14% of Canada's GDP – 15% of GDP in Ontario. Every $1 of manufacturing output generates $3.25 in total economic activity. Manufacturing generates $600 billion in annual manufacturing shipments, 50% of which come from Ontario.

Canadian manufacturers:

- Employ 1.8 million Canadians with wage levels 25% above national average
- Account for two-thirds of Canada's goods & services exports
- Account for 75% of private sector R&D
- Bring 85% of new products to market
- Have reduced GHG emissions by 9.3% between 1990 and 2005.

As we are all aware, the challenges facing the manufacturing sector today are many. Manufacturers in Canada face thin profit margins due to the impact of rapid appreciation of the Canadian dollar and increased energy and commodity costs. There is weakness in key markets (housing, automotive, industrial equipment, capital projects, overcapacity in most industrial markets). Manufacturers face higher levels of risk and uncertainty

such as late payment, default, higher levels of receivables and inventory or orders postponed and cancelled. Financing difficulties are also a major problem.

However, manufacturers are trying to respond to the challenge. They are implementing new strategies, managing cash flow wisely using financing, hedging, pricing, contracting, outsourcing, focusing on what customers value and eliminate waste, innovate and find solutions in specialized products, services and customization. They are developing new markets in Canada and around the world, leveraging logistics advantages and achieving results through people, their skills and workforce capabilities.

In order to better respond to the challenge, manufacturers need Ontario's help to assist manufacturers with key problems such as access to financing, providing a competitive tax structure that encourages investment and providing competitive infrastructure. The **Open for Business** initiative in Ontario is of prime importance to manufacturers as it seeks to provide what manufacturers need to compete in today's market: **a regulatory environment that is practical, achievable, low cost, effective, and timely.**

Bill 167, the Toxics Reduction Act must be examined in the spirit of "Open for Business". CME would like to provide some specific examples of where Bill 167 could be improved in order to lower regulatory costs, increase effectiveness and achievability without sacrificing environmental goals.

CME members are highly supportive of effective toxics management. They have recognized the importance of this long before Bill 167 with implementation of ISO 14000

standards, voluntary pollution prevention programs and other federal government regulatory initiatives and they fully realize the benefits of being environmentally responsible members of their communities. Many CME members participated in the federal government's Accelerated Reduction Elimination of Toxics (ARET) challenge program which was developed jointly by government, ENGOs and industry. By the year 2000 ARET attracted participation from 8 major industry sectors, 171 companies and government organizations, and 318 individual facilities. Over the entire course of the program, more than 70,000 tonnes of ARET substances were prevented from being released into the Canadian environment.

Ontario manufacturers have also been improving productivity using the "Lean" philosophy of reducing waste and they are now recognizing the importance of the Lean lens on environmental issues. CME will continue to assist its members to implement Lean.

We understand that Ontario has a desire to follow the Massachusetts model for toxics reductions. CME has had discussions with its industry counterparts in that state. While their program has evolved significantly over the years, it was a tough start for their manufacturers. The manufacturing numbers in Massachusetts today have declined significantly over the past 20 years since they began their program as they face similar challenges as Ontario companies. In Ontario, we will need to do better for our manufacturers.

It is important to note that CME members are typically users of a wide number of substances. This leaves CME members more susceptible to costs and burden associated with compliance of the proposed legislation. We are concerned about the amount of regulatory burden that the proposed legislation may add and believe it is important to ensure that regulatory and paper burden are properly addressed.

We understand that many issues of concern that we will outline today will be considered in the regulatory development phase however, we believe that the issues we present today are important enough to industry that they be addressed in a forum that can provide a true democratic process (such as the opportunity to be a witness in today's Committee hearing).

One main concern of manufacturers is the "Contents of the Toxic Substance Reduction Plan", section 4(1). While we appreciate the voluntary approach to the implementation of the Plans, the development of Plans will mean significant extra paper burden for manufacturers. To address this, changing the requirement to do one plan per facility (not one plan per substance) would improve the paper burden for CME members because, as noted above, they typically use numerous chemicals in the manufacturing process. The legislation should allow for one plan for a facility and enable efficiency and by allowing facilities to choose to address a manageable number of substances based on the expertise of that manufacturing facility.

We would suggest that Section 4(1) and Section 4(1)4 should be modified to require a description of material processes at the facility collectively (not each substance) and

other sections in the Act following to require further descriptions of material processes collectively as in Section 4(1)4. It would also be helpful for both industry and the environment if the processes that are most significant sources of substances be considered when developing plans. Specifically, Section 4(1) 4 ii (c) could be changed by adding the words "significant processes". Section 9 could also be changed to ensure that processes which provide significant sources of substances only be tracked and quantified. For example, substances such as Chromium compounds may be used in a wide variety of processes in a manufacturing facility such as chrome plating, the manufacture of dyes and pigments, leather and wood preservation, and treatment of cooling tower water. Smaller amounts are used in drilling, textiles, and toner for copying machines. It would be more practical if a company only needed to report on the significant sources of chromium compounds.

CME members also believe it is important to provide equivalency with other certified environmental management systems (EMS) such as ISO 14001 with no changes to the EMS and provide powers to MOE Directors to recognize such plans under the Act in Section 44 , "Document Prepared for Another Purpose".

With respect to Toxics Substance Accounting, CME believes that MOE should not dictate which type of toxics accounting system a company uses. If a company is already using a recognized accounting method, it should not be required to change. There would be no environmental benefit and would add unnecessary costs for compliance. This should be clearly indicated in the Act.

CME is not opposed to public reporting, however, there is a real concern about confidential business information being exposed under this proposed legislation. Industry has worked with the federal government extensively in reporting environmental information publicly and CME suggests that MOE use this information learned (through greenhouse gas reporting and toxics reporting federally under S. 71 of the Canadian Environmental Protection Act, CEPA 1999). MOE must ensure by clearly stating in the Act that manufacturers' confidential information cannot be used by competitors.

CME is also concerned that Ontario's definition of "Toxic substance" needs to be better defined in Bill 167. CME recommends Ontario use a definition of "toxic" that is consistent with the Canadian Environmental Protection Act definition and this should be clearly noted in the Act. Having different definitions of toxics federally and provincially is confusing to the public and to industry.

In summary, added paper burden will not necessarily equate to improved environmental performance. To eliminate unnecessary reporting, dictating how to report, duplication with federal reporting or toxics reduction will only decrease the competitiveness of Ontario manufacturers while failing to benefit the environment. The more time manufacturers spend on "paper exercises", the less time and resources they have to implement environmental improvements.

In order to alleviate some of the regulatory burden in Bill 167, CME requests that:

1. Only one toxic substance reduction plan be required for each facility (not one plan per substance as currently proposed).
2. Companies be permitted the flexibility to decide which processes are most significant when developing plans and be permitted to prioritize which substances they should work on first in order for the plan to be achievable and practical.
3. Companies should be permitted to demonstrate through other recognized EMS that they are fulfilling the requirements of the legislation (and not have to change their current EMS).
4. Companies should be allowed the flexibility to determine which method of toxic substance accounting they wish to use. It should not be important "how" toxics are measured, just that they are measured accurately. It would be a difficult and unnecessary burden for manufacturers to change their current reporting systems.
5. The term "toxic" should be defined in the act in order to provide manufacturers and the public with some clarity.
6. MOE needs to ensure industry that confidential business information will not be disclosed.

CME would also like to suggest that MOE run five trials or pilots of the legislation each with small, medium and large size companies before the requirements come into force. This will allow MOE to recognize any needed changes with the legislation prior to full implementation.

Thank you again for this opportunity to suggest ways in which Bill 167 could be improved to have less of a regulatory burden on industry while not compromising environmental objectives.