

April 18, 2020

The Honourable Jonathan Wilkinson
Minister of Environment and Climate Change
200 Kent Street
Ottawa, Ontario K1A 0E6

RE Follow Up from Conference Call Meeting – April 3rd, 2020

Dear Minister Wilkinson:

Thank you for speaking with me on April 3rd and for the continued commitment of the government to take aggressive actions to combat the societal and economic impacts of COVID-19. I am following up on our conversation to again formally request flexibility in reporting requirements for existing regulations, a delay in the implementation of regulations that your department is aiming to implement as well as to seek your support for a full review of other proposed regulations.

As discussed, the focus of our members right now is two-fold. First, they are fighting to maintain their operations to continue to provide a safe workplace for their employees and their families. Second, many of our members have turned their attention to manufacturing products to help society combat this virus.

Their focus is not on changing government regulatory measures that are unrelated to the current crisis. The vast majority of manufacturers in Canada do not have the internal resources or capacity to understand or implement regulatory changes at this time. This impacts their ability to both comment on new regulations being developed as well as ensure they are compliant with new regulations coming into force. Furthermore, given the ongoing requirements to be extra-vigilant in ensuring a safe work environment, most office staff are working remotely, and third-party contractors are severely restricted from on-site visitation. These realities make it difficult to comply with all regulations, especially when third-party validation is required.

Based on these realities, CME has asked all levels of governments and all departments to put a temporary freeze on new regulations as part of the response to COVID-19 as well as provide greater regulatory flexibility, especially around reporting requirements. Most governments and departments are supporting this request given the unprecedented circumstances, and we hope you will direct ECCC staff similarly.

The second request is that considering the ongoing crisis that the government conduct a more thorough analysis of several proposed regulations to fully understand their short and long-term impacts on the ability of Canadian manufacturers to compete successfully at home and abroad. This crisis is showing how critical it is to have a strong, innovative, flexible manufacturing sector that can be the staple of the economy, operate in all conditions, and most importantly be able to respond to the needs of the country. Developing and implementing unique regulations that undermine domestic manufacturing capability and Canadian industry at a disadvantage

with international competitors will drive investment, jobs, and innovation out of the country. The very things that the country has relied upon to manage this crisis.

Within ECCC there are several key regulations that fall into these areas which are noted in the appendix below that I ask for your review and consideration. However, three items I want to raise that are most urgent, which while we understand the intent, could do considerable harm. The first is the proposed ban on single use plastics, which as we have seen through this crisis are essential. The second is deeming items like plastic, copper and zinc as toxic. Rather than being toxic, they are fundamental in manufacturing many of the products that the country needs right now during this crisis, as well as in many goods that are manufactured during regular times. The third area is Clean Fuel Standard which if implemented as currently being designed will unsustainably drive up energy costs for industry, if they are able to secure sufficient quantities of the qualifying fuels to begin with.

Minister, thank you for your commitment to our sector. We are proud of the way in which the manufacturing sector has stepped up in the fight against COVID-19. In the coming weeks, we look forward to more frequent discussions on how our sector can help address climate change and be part of the economic recovery.

Sincerely,



Dennis Darby
President and CEO

Appendix:

Examples - Regulatory Compliance Deferrals

GHG Reporting Requirements:

We ask that the requirement for third-party verification of GHG emissions reports be temporarily waived. The preferred approach would be to defer the on-site visit to next year rather than extend the deadline. For plants performing third-party verifications for the first time, ECCC may be reluctant to exempt the site visit but there may be opportunity for the verifier to include an attestation statement as to their understanding/familiarity with the site at the time of verification, and a site visit can be scheduled for a future date.

The Quebec Ministry of the Environment and Climate Change (MELCC) has waived the onsite visitation requirement for reporting for emitters subject to the Cap & Trade and the Alberta Ministry of Environment and Parks (AEP) has moved to suspend many environmental requirements.

Federal fuel regulation reporting requirements:

We ask that March 2020 - June 2020 reporting and auditing requirements for federal fuel regulations for renewable fuels, benzene in gasoline, sulphur in gasoline, sulphur in diesel fuel and fuel information be deferred to a mutually agreed upon date, with further consideration to extend this deferment for a longer period, if the COVID-19 situation and industry response described above continues.

National Pollutant Release Inventory (NPRI):

Currently, the requirements to work from home have reduced operators' computing capacity for making calculations and data uploading more difficult. Also, reports require site-level data collection, which is not an essential service. The quality of the various report data will not be sacrificed if the reporting deadline is pushed back for 2020. Reporting deadlines should be deferred to August 31, 2020.

Examples - Delay in Policy/Regulatory Proposals:

Clean Fuel Standards (CFS):

The manufacturing sector was already concerned with a number of critical CFS information gaps and compliance uncertainties prior to the COVID-19 outbreak, including the lack of an economic and regulatory impact analysis. The current pandemic and the additional compliance uncertainties it creates, for what will be a very complex regulation, lead CME to conclude that this regulation is not technically nor economically feasible.

Manufacturers believe that further consultation to resolve the many information gaps and compliance uncertainties is essential to regulatory success. In the new COVID-19 context, this consultation must include a review of the coming into force date and timeline for the 30 megatonne target, robust analysis of compliance cost implications for manufacturers, and consideration of the costs that will be passed onto small-medium

manufacturers. We recommend the regulation-making process and further consultations be paused until the crisis subsides and proper economic analysis is undertaken.

Designation of Plastics as Toxic Substances:

The federal governments proposal to list plastics as toxic under Schedule 1 of the Toxic Substances List within Canadian Environmental Protection Act (CEPA) will provide the government with the authority to regulate and limit certain products. Given this pandemic, CME more than ever is concerned that this move is aggressive and that it will impact investment and competitiveness in Canada's manufacturing sector and restrict overall industry growth in all provinces. Currently, toxic substances are defined under CEPA as those that cause, or may cause, immediate or long-term harm to the environment, biological diversity or human health. All new designations must be paused, and an alternative framework must be determined to manage plastic waste.

Ban of Single-Use Plastics:

CME appreciates the Government of Canada's commitment to reduce litter and waste in our environment. The issue of plastics litter and waste is a global one, but the pathway to solving this problem in advanced economies like Canada's and the developing world is very different. In countries without the means to process plastic waste, bans are a real solution to a real problem. In Canada, however, we need to address a societal issue of litter, as well as regulatory and economic issues across the country that have stalled our ability to create a circular economy – not just in selected single use plastics.

In our view, plastics has played a significant role in this pandemic. As such, a ban on single-use plastics should be reconsidered, similar to decisions made in Maine, New Hampshire, Massachusetts and San Francisco.

Alternative solutions should be introduced and implemented instead of a broad plan on single-use plastics.

Plastics is a vital part of our economy and is used in the manufacturing of many medical supplies, such as gloves.

Plastics will be critical to the economic recovery following this pandemic.

Risk management options under consideration for Copper and Zinc:

Any work to apply a broad designation to copper and zinc based on Environment and Climate Change Canada's (ECCC) risk management scope proposals should be suspended. When we have explained to some officials within ECCC the importance of a narrow designation, they disregard our concerns. There is a lack of understanding that a broad designation points to a perception of the attitude of Canada towards these essential metals. This will have an adverse impact on investments.

Following this pandemic, we would welcome the opportunity to work to ECCC on a simple solution which is that elemental zinc and copper should be excluded from any proposed designation. Our view is that the final designations for zinc and copper should be limited to the substances of concern. ECCC has all of all the regulatory authority it needs to regulate the form of the substances which are of concern.

Canadian Environment Protection Act (CEPA) Reform:

CME has been participating in discussions on proposed amendments to CEPA with the goal of ensuring that the risk-based approach is maintained. While this is an important initiative, it is appropriate to postpone the development and consideration of any changes to the CEPA legislation until proper consultation is possible.

Other Policy Considerations:

Expedite the Output-Based Pricing System (OBPS) design review:

The OBPS design flaws, which were raised by our members during the regulation's development, have been left unaddressed by ECCC and will have an impact: The great potential for unusually low production levels in 2020 (and fewer GHG emissions) will actually lead to higher GHG costs. We ask that this review be expedited so that the design of the OBPS can adequately account for production levels and new economic considerations.

Adjustments to the Payment of Federal OBPS costs for 2019 and/or 2020:

Manufacturers, particularly those that are energy-intensive, trade exposed (EITE) and are in the OBPS, are facing cash flow strains and are fully focused on the health and safety of their employees and ensuring their operations can survive and later thrive following this crisis. Arrangements need to be made to account for the EITE sector's current economic situation while at the same time ensuring that it is able to adhere to its OBPS compliance obligations. We are proposing one of the following alternatives for ECCC to adopt:

- Alternative #1: Reduce the total OBPS payment required for 2019 and assess further for the 2020 payment. This might include temporarily increasing flexibility for GHG emissions targets for multiple sectors covered under the OBPS.
- Alternative #2: A payment deferral for a period at least until September 1, 2021 (to align with next relevant reporting periods) without the application of interest or penalties. This may need to be revisited again in the future depending on the strength of the economic recovery. If the economic recovery is slow and gradual, payments may need to be amortized over a number of years.