

Canadian Plastics Industry Association  *Association canadienne de l'industrie des plastiques*

May 7, 2009

Ms. Ana Tinta
Toxics Reduction Project
Ministry of the Environment
135 St. Clair Avenue West,
Toronto, Ontario M4V 1P5

Reference: EBR Registry Number 010-6224 Bill 167 – Toxics Reduction Act 2009

Dear Ms. Tinta,

The Canadian Plastics Industry Association (CPIA) is pleased to submit its comments regarding Bill 167. CPIA commented on the discussion paper and attended consultation sessions on Ontario's Toxics Reduction Strategy.

CPIA is a national association representing the Canadian plastics industry. CPIA's members comprise resin producers, processors of plastic resins into articles of commerce, manufacturers of machinery and moulds, as well as compounders and suppliers of chemicals and additives to plastic processors.

The plastics industry is the 3rd largest manufacturer in Ontario. Canada-wide, 48% of plastic manufacturers are located in Ontario employing around 55,000 people. As an industry, we are committed to the protection of public health and the environment. However, the Bill as drafted will lead to arbitrary application affecting hundreds of plastic companies adding another costly burden on industry. As an industry, we are very concerned.

Toxic substances are well controlled by the Canadian Environmental Protection Act (CEPA) and the Federal Chemical Management Plan (CMP). The Federal Government is well advanced in its risk assessment of chemicals and the institution of management plans for those which put the public and the environment at risk. We are recommending that Ontario not devise an independent system.

However, recognizing Ontario's interest in having information on the use of toxic substances in Ontario on a facility basis and how those substances are being managed, we suggest that this can be done through the harmonization of Bill 167 with CEPA and the Federal Chemical Management Plan (CMP).

The following comments and recommendations suggest areas of Bill 167 which should be amended to facilitate harmonization with CEPA.

Definition of Toxic Substance

The definition of “toxic substance” (section 2) in the Act is of particular concern to us. The definition, as it exists in Section 2 of the Act, is one ‘that is prescribed by the regulations’. We believe this definition is inadequate and one which will result in the arbitrary selection and labeling of substances as toxic when they are not.

There needs to be evidence that chemicals have been assessed scientifically for both their hazard and risk to public health and the environment. The Federal CMP is the agency and programme to do the assessments and should continue to do so. We believe Ontario should not duplicate the CMP and add another cost burden on the Ontario taxpayers.

If we don’t have consistency with CEPA, industry is once again subject to arbitrary rules, entirely unworkable for industry. The economic consequences to the Province could be severe.

Recommendation 1:

CPIA recommends that the definition of “toxic” in Section 2 be consistent with that used in the Canadian Environmental Protection Act (CEPA). Furthermore, Bill 167 should refer to CEPA and its schedules for the list of toxic substances that will be applicable, subject to regulation, under Bill 167.

This amendment will therefore restrict substances affected by the Bill to those deemed ‘toxic’ only under CEPA.

Application of the Act

It is the intention that regulations pursuant to Bill 167 apply only to the manufacturing and mining sectors of the economy. The focus of the Bill, being on public health, should include other sectors which use ‘toxic’ substances, for example, municipalities which are large users of chlorine, a chemical listed in the discussion paper.

Recommendation 2:

Regulations pursuant to Bill 167 not be restricted to only manufacturing and mining for substances deemed to be ‘toxic’ under CEPA.

Process for Managing Toxic Chemicals

Section 4 of Bill 167 does not outline any process for managing a chemical which has been designated to be “toxic”, other than reducing its use. In some cases, risk to public health and the environment from the use of toxic substances can be managed through other mechanisms and these should be allowed. CEPA includes management options such as environmental performance agreements as a mechanism to control use and eliminate releases. Ontario should not take unilateral action and restrict management options.

Recommendation 3:

CPIA strongly recommends that the Ontario Government amend Bill 167 – Section 4 to include other options to manage toxic substances such as environmental performance agreements and the management plans developed pursuant to CEPA.

Public Disclosure

Section 10 – Clause 4 of the Bill permits the Director to make information available to the public. Extreme care is required so that any information released to the public is not misconstrued and cause collateral damage to another substance. For example, in the discussion paper, ethylene was listed as a toxic substance. Ethylene, a gas, is used to make polyethylene, a solid, a totally different substance. Information released to the public on ethylene could negatively impact many plastic products ranging from packaging to automotive parts.

If it is the intent of the Ministry to link toxic chemicals to the manufacture of a consumer product we are strongly opposed to that as well. It will result in ‘chemo-phobia’ by Ontario citizens. Furthermore, since it is only plants in Ontario that have to report, the province risks the further loss of local jobs to ‘imports’ which will not be subject to the same control and scrutiny.

Recommendation 4:

We recommend that an additional clause be added to Section 10 that states the Director is not permitted to link a toxic chemical to a specific consumer product unless that product has been assessed under CEPA and determined to be toxic.

We also recommend that Section 10, Clause 4 should be amended to require the Director, prior to releasing any information publicly, to carry out an economic assessment of potential damage to another substance through a misinterpretation by the public of information which the Director releases.

Cost of the Program

As the Bill is currently drafted, the costs to many plastic processors would be detrimental. Ontario’s plastic processing sector has been hard hit in this economic climate, the down turn of the auto industry, the slow down in the building sector have had their impact. There are also many examples of plastics production for which there are no substitutes. Passing of this Bill as drafted would have severe impacts on the plastics processing sector, one that is highly innovative and highly technical. Additional cost increases could drive some Ontario-based companies to seek less costly jurisdictions.

CPIA Role in Promoting Product Stewardship

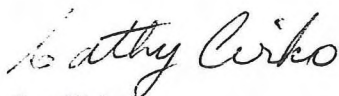
In working with Environment Canada, CPIA has proactively led the development of product stewardship programs to manage the release of chemicals in to the environment. Such programs include an Environmental Performance Agreement on the use of Tin Stabilizers and an Environmental Management Program for the Vinyl sector.

CPIA, in working with industry, has identified other opportunities to further our product stewardship efforts through the development of best practices to manage substance use in our industry. We believe such proactive approaches should be endorsed and fostered by the Province of Ontario, as supporting cooperative efforts between industry and governments.

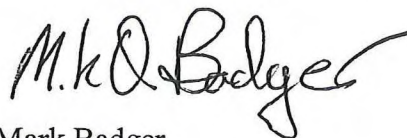
In summary, our comments stress the need to harmonize Bill 167 with the Federal Government CMP. We have made recommendations on some areas of Bill 167 that need to be amended to accomplish harmonization. This is an opportunity to leverage the Federal government programs and to avoid significant costs to both the Ontario government and industry, which is highly desirable in this current economic climate.

We thank you for considering our recommendations.

Yours truly,



Cathy Cirko
Vice President
Environment & Plastics Industry Council (EPIC)
(A Council of CPIA)



Mark Badger
President and CEO
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