



Canadian Vehicle  
Manufacturers' Association  
Association canadienne  
des constructeurs de véhicules

October 24, 2014

Mr. Dominic Mancini  
Deputy Administrator  
Office of Information and Regulatory Affairs  
725 17<sup>th</sup> Street, NW  
Washington, District of Columbia 20503  
United States

Mr. Bob Carberry  
Assistant Secretary  
Regulatory Cooperation Council Secretariat  
66 Slater St  
Ottawa, Ontario K1A 0A3  
Canada

**Subject: Regulatory Cooperation Council Joint Forward Plan – AAPC and CVMA Submission**

Dear Messrs. Carberry and Mancini:

On behalf of our respective member companies, Chrysler, Ford, and General Motors, the American Automotive Policy Council (AAPC) and the Canadian Vehicle Manufacturers' Association (CVMA) appreciate the opportunity to participate in the U.S. – Canada Regulatory Cooperation Council (RCC) Regulator and Stakeholder Event on October 7 and 8, 2014 in Washington, D.C.

We remain strongly supportive of the objectives and activities under the RCC and the Joint Forward Plan published on August 29, 2014 and commend your leadership and the work of the involved departments. We have observed marked improvement in communication and cooperation between the two countries' agencies and departments which is an important first step. We continue to have high expectations for the binational initiative, anticipating the completion of the existing work plans and looking forward to the next phase of institutionalizing agency-to-agency regulatory partnership statements that will make regulatory cooperation a routine and ingrained practice between Canadian and U.S. regulatory authorities.

We have strongly supported the establishment of the RCC jointly announced by President Obama and Prime Minister Harper in 2011 to improve efficiency and the competitiveness of the integrated Canadian and U.S. market through greater cooperation in regulatory approaches. Automotive trade under the North American Free Trade Agreement (NAFTA) continues to be one of the most successful trade sectors in the world and accounts for \$100 billion in two-way trade between Canada and the United States, and more than 20% of the total trade between the two countries. Vehicles and auto parts are designed, tested and produced seamlessly on both sides of the border for use in either market. Both markets have largely shared driving conditions, infrastructures, environment and public policy objectives.

It is critical that Canada and the U.S. first attain and maintain harmonized North American vehicle, product and manufacturing standards and regulations. Canada and the U.S. must coordinate their efforts as an integrated market when considering the global harmonization of standards and regulations that impact vehicle design, testing, and manufacturing. While it is often difficult to quantify the benefits of the cooperative regulatory approach between Canada and the United States, the approach provides real value for consumers, regulators and industry alike. Aligned standards and regulatory approaches mean decreased incremental engineering time for design and additional testing that generate extra costs and limit productivity; finite resources can be redirected to value-added design and engineering activities rather than administrative compliance documentation and record keeping of regulatory differences. Companies can reduce product costs leveraging the economies of scale by providing a common product across an integrated market, resulting in the introduction of new and more advanced technologies into the market more quickly, with more product choice and lower product costs for the consumer.

Our specific comments cover the three components of the Joint Forward Plan, namely:

- A) Department-Level Regulatory Partnerships
- B) Department-to-Department Commitments and Work Plans including:
  - Vehicle and Engine Emissions
  - Motor Vehicle Safety Standards
  - Connected Vehicles
  - Chemicals Management
  - Workplace Chemicals and
  - Transportation of Dangerous Goods
- C) Cross-Cutting Issues

### **Department-Level Regulatory Partnerships**

We support the formal institutionalization of cooperation between Canada and U.S. from the highest departmental levels all the way through to regulatory planning so that an integrated Canada-U.S. approach becomes business-as-usual. The innate attitude of “how do we achieve harmonization” as opposed to “why we cannot achieve it” needs to be ubiquitous – including support to address and overcome legislative differences. The Regulatory Partnership Statements will provide a foundation for the establishment and implementation of robust, permanent and well-defined processes to coordinate, plan and develop new or amended regulations which govern the products industry builds and consumers use.

We encourage the completion and publication of the individual Regulatory Partnership Statements which will assist in making regulatory cooperation a routine, ingrained practice between Canadian and U.S. departments. We look forward to the opportunity offered during the recent meetings in Washington to review the content of the Regulatory Partnership Statements as they are developed.

### **Department-to-Department Commitments and Work Plans**

We offer the following comments and suggestions for consideration in the areas of Vehicle and Engine Emissions, Motor Vehicle Safety Standards, Connected Vehicles, Chemicals Management, Workplace Chemicals and Transportation of Dangerous Goods.

Vehicle and Engine Emissions: U.S. Environmental Protection Agency/Environment Canada

We readily applaud the collaboration between the U.S. Environmental Protection Agency (EPA) and Environment Canada in implementing common requirements for Tier 3 vehicle and engine emission regulations and the single national standards approach for vehicle greenhouse gas emissions regulations, effectively creating continental standards. Further strengthening regulatory cooperation and harmonization of vehicle and engine emissions and fuels regulations provides greater efficiencies for both governments and industry, while providing for greater environmental benefits sooner and enhancing competitiveness. When regulatory agencies work together toward common objectives, the result is a more effective and efficient policy that attains greater environment benefits, sooner.

The industry in the U.S. is already regulated under stringent criteria air contaminants regulations. Under the RCC Joint Forward Plan, effort is needed to ensure that the Tier 3 vehicle emission standards that will reduce vehicle smog-causing emissions by a further 80% are aligned and the timing is synchronized. This alignment applies to emissions and fuel quality and market introduction timing requirements under Tier 3.

In addition, the alignment on the light-duty vehicle and heavy-duty vehicle and engine greenhouse gas (GHG) regulation needs to carry on so that there is continued alignment between Canada and the United States.

Motor Vehicle Safety Standards: National Highway Traffic Safety Administration (U.S. Department of Transportation)/Transport Canada

The work to date addressing existing differences between Canada and the U.S. Motor Vehicle Safety Standards has been underpinned by increased cooperation and communication between Transport Canada and National Highway Traffic Safety Administration (NHTSA). Progress on the existing work plan such as completion of amendments to Canada Motor Vehicle Safety Standard (CMVSS) 208 Occupant Protection to further align the Canadian standard with those of the U.S. is encouraging. The recent amendments to the Motor Vehicle Safety Act (MVSA) in Canada will provide more streamlined regulatory tools that should facilitate and assist in expediting harmonization and alignment of standards; it is encouraging that Transport Canada has considered legislative as well as regulatory opportunities in this regard.

Despite the process described above, there is a need to focus on completing important work under the existing work plan. In particular, side impact (CMVSS/FMVSS 214) and ejection mitigation (CMVSS/FMVSS 226) standards have not yet been published or put in place and are identified again as regulatory alignment priorities in the Joint Forward Plan. A concerted effort and redirection of Transport Canada resources is needed to expedite and complete this task. The first 100% phase-in date for Federal Motor Vehicle Safety Standard (FMVSS) 214 in the United States was September 1, 2014, so it is even more important to ensure that the Canadian requirements are put in place as soon as possible.

The department-to-department commitments outlined in the Joint Forward Plan include consideration of the implementation of single test methodologies in both countries. This will provide significant efficiencies for both the industry and the departments. We recommend, as a starting point, that NHTSA and Transport Canada review FMVSS 225 and the corresponding CMVSS 210.1

and 210.2 test requirements as there are only slight differences in test methodologies between the standards and should be easily reconciled.

Also, we note that Transport Canada and NHTSA have initiated joint planning of future research and regulatory development work to facilitate enhanced collaboration on standards development. This is positive progress and we urge the departments to move forward to complete the Regulatory Partnership Statements as soon as possible.

#### Connected Vehicles: U.S. Department of Transportation/Transport Canada

We support the commitments for the Connected Vehicle work plan including joint planning and priority-setting, collaborative research projects and information exchanges to support analysis and development of architecture and standards. Given that vehicles are driven across the Canada-U.S. border on a regular basis, it is critical that a common set of protocols, including security and privacy, be established with regard to both Vehicle-to-Vehicle (V2V) and Vehicle to Infrastructure (V2I) technology associated with Connected Vehicles and Intelligent Transportation Systems (ITS). U.S. Department of Transportation (U.S. DOT), NHTSA, and Transport Canada must work together along with the states and provinces to ensure one common standard in Canada and the U.S. especially given NHTSA's recent publication of the Advanced Notice of Proposed Rule Making on V2V.

Dedicated Short Range Communications (DSRC) in the 5.9 GHz band is the principal enabling technology for U.S. DOT's multi-year Connected Vehicle research program. There are activities by the Federal Communications Commission (FCC) to explore shared use of the 5.9 GHz band, allocated in 1999 for ITS applications, and we understand that NHTSA and U.S. DOT have been engaged in this activity. The application of this technology to enhance vehicle safety and the potential benefits it can provide dictates that harmful interference with the DSRC transmissions from other devices must be prevented. The departments need to remain engaged and committed to protecting the 5.9 GHz bandwidth for vehicle communications in both Canada and the United States.

#### Chemicals Management: U.S. Environmental Protection Agency/Environment Canada and Health Canada

As the RCC continues to focus on regulatory cooperation and harmonization between Canada and the United States, we strongly encourage them to expand the scope to include Chemicals Management. Efforts to align chemical substance regulatory processes through the development of common approaches to address emerging risk issues are a critical first step. It is important to jointly consider both the use of new information to assess chemicals and the examination of common regulatory reporting requirements of new chemical uses.

As you are aware, the automotive sector is integrated across North America. A typical vehicle manufacturer uses materials and parts which require the use of over 10,000 chemicals from 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. manufacturing facilities and vehicles sold and serviced in both markets.

Given the RCC's focus on aligning regulations, it is essential that the Chemicals Management work plan be extended beyond coordinating risk assessments to also include coordinating risk management of substances. Both jurisdictions are currently assessing and evaluating substances

such as flame retardants and phthalates which are important to our sector. A commitment through RCC that potential risk management of either of these substance groups would be coordinated would be extremely valuable. The addition of these groupings of substances provides a real opportunity to realize tangible results when efforts are combined for work already being done in Canada and the United States. It is essential that the outcomes of assessments of substances are consistent between Canada and the United States and the risk outcomes and timing must be coordinated in the same manner on both sides of the border. An absence of coordination on chemical risk management will result in divergent and misaligned approaches between the U.S. and Canada which has the potential to negatively impact and disrupt the North American auto industry and its supply chain. It also has the potential to result in negative economic consequences and will challenges for implementation across the industry.

With respect to the efforts aligning the Significant New Use Rules (SNUR) and Significant New Activity provisions (SNAC), we are supportive of their inclusion in the work plan. We also suggest that a more detailed consultation plan be developed on this particular work area so that stakeholders have an opportunity to provide input through the course of the work effort. This will ensure that the end work product is successful.

The RCC Joint Forward Plan for Chemicals Management should be a more focused effort on alignment between the two countries on both Risk Assessment and Risk Management for substances, especially as prohibitions or restrictions are being contemplated. We would greatly benefit from the development of a more formalized structure to risk management.

#### Workplace Chemicals: Occupational Safety and Health Administration (U.S. Department of Labor/Health Canada

There have been substantial efforts to date to harmonize requirements and timing for the implementation of the Globally Harmonized system of Classification and Labelling of Workplace Chemicals (GHS). This includes recent publication of proposed regulatory amendments in Canada for the implementation of GHS. However, there are currently slight differences between the Canadian and U.S. requirements which need to be minimized and aligned quickly given the upcoming implementation timelines. Coordinated timing and improved alignment would ensure that one label can be used during the transition for materials in the U.S. and Canada and also result in significant efficiencies associated with training and implementation activities. Health Canada also needs to work with the provinces in this regard.

The Joint Forward Plan recognizes that a mechanism is needed to maintain alignment as the system is updated and modernized or new requirements of standards are put in place as well as on common interpretation and guidance materials. We support the Departments' consideration of such a mechanism.

#### Transportation of Dangerous Goods: Pipeline and Hazardous Material Safety Administration (U.S. Department of Transportation)/Transport Canada

Continued efforts to align the regulatory regimes for the transportation of dangerous goods are positive. For our sector, there is an increasing trend toward electrification of automobiles which leads to the need for dangerous goods legislation and attendant policies to be structured in a manner that facilitates the free-flow of advanced battery systems and components across the Canada-U.S. border.

We recommend that a priority work item should be the recognition of each country's exemption permits, such as the TDGR Equivalency Certificate and approval obtained from U.S. 49 CFR. This would eliminate redundancy associated with the approval process, allow for improved flow of material across the border and create efficiency in the process. We recognize that in Canada, where unique provincial requirements exist, coordinated changes would also be needed across the jurisdictions.

We recognize progress made in updates to both the Canada and the U.S. regulations to reference the UN Model Regulations (17<sup>th</sup> edition) which are already closely mirrored by the International Civil Aviation Organization (ICAO) Technical Instructions for air shipment of dangerous goods and the International Maritime Dangerous Goods (IMDG) Code for the vessel transport of dangerous goods. However, there are additional opportunities for the Canadian requirements to be better aligned with the UN Model Regulations and U.S. requirements including those related to lithium batteries. Specifically, the U.S. has recently published rulemaking that adopts Lithium Ion Battery (UN3480) and similar provisions in Canada are currently in a technical bulletin (RDMIS #5872093) published in 2010 and should also be included in the regulation. Lithium Ion batteries contained in equipment (UN3481) should also be adopted to avoid issues with incorrect classification.

Additionally, Special Provision 230 of the 17<sup>th</sup> edition of the UN standard should be included in place of the current Special Provision 34 in Schedule 2 of the Canadian Transportation of Dangerous Goods Regulations to ensure that the classification criteria match and allow for international transport. Currently the entry UN3090, Lithium Batteries, requires compliance to Special Provision 34 (schedule 2) which includes restrictions on lithium content that limit the size of the battery or cell that can be transported under the particular classification. The requirement is more clearly stated in the UN Model Regulations Provision 230 and does not place any restrictions on lithium content. Transport Canada should incorporate Packing Instruction P903 as recommended in the UN Model Regulations as a special provision. This would better align with the ICAO Technical Instructions, the IMDG Code and the U.S. 49 CFR which all include provisions for the packaging of lithium batteries in excess of 12 kg (which automotive batteries meet). Currently, this provision is not included in the Canadian TDGR and as a result shipments of lithium batteries into Canada require unique packaging.

Special provision 310 as recommended in the UN Model Regulations should be incorporated into the Canadian requirements as a new special provision or inserted into existing Special Provision 34 in Schedule 2. This would allow for the transport of "prototypes" consistent with the UN and U.S. 49 CFR approaches.

### **Cross-Cutting Issues**

We support the commitment of the RCC to study a number of cross-cutting issues beyond regulations including laws and policies that can be a challenge in moving towards international regulatory cooperation. We encourage the RCC to take actions and make the changes needed to legislation, regulation, or policies to remove barriers to U.S.-Canada cooperation and alignment in areas such as information sharing, joint funding, and rulemaking processes. Progress on cross-cutting issues is achievable as was demonstrated recently through amendments to the Canadian Motor Vehicle Safety Act that will facilitate future alignment between the U.S. and Canada motor vehicle safety requirements.

## Conclusion and Next Steps

We continue to strongly support the efforts of the Regulatory Cooperation Council and the U.S. and Canadian Departments. As noted in the Joint Forward Plan, regulators must lead the way to create and sustain change. We look to the RCC and the departments and agencies to provide continued leadership and accountability in ensuring that the work under the existing plans is completed and that the new Joint Forward Plan and work plans progress in accordance with the timelines. We have seen the progress to date and the Joint Forward Plan will further assist in moving towards a more modernized regulatory environment that meets the realities of an integrated Canada-U.S. marketplace. Completion of the Regulatory Partnership Statements and formal institutionalization of a permanent process and culture of cooperation between Canada and the U.S. remains a priority so that an integrated Canada-U.S. approach becomes business-as-usual.

We appreciate this opportunity to provide additional input and feedback on the Joint Forward Plan and would be pleased to provide any additional clarification you may need. We would also be willing to meet with you and department officials to discuss our submission.

Yours sincerely,



Governor Matt Blunt  
President  
American Automotive Policy Council  
mblunt@americanautocouncil.org



Mark A. Nantais  
President  
Canadian Vehicle Manufacturers' Association  
mnantais@cvma.ca

cc: S. McDermott, U.S. Department of Transportation  
R. Posten, National Highway Traffic Safety Administration  
S. Kelley, U.S. Department of Transportation  
C. Jones, U.S. Department of Transportation  
M. Flynn, U.S. Environmental Protection Agency  
S. Karl, U.S. Environmental Protection Agency  
C. Jackson, U.S. Environmental Protection Agency

M. Beale, Environment Canada  
V. Poter, Environment Canada  
D. Morin, Environment Canada  
L. Kinney, Transport Canada  
K. Ram, Transport Canada  
J. Lothrop, Transport Canada  
A.J. Preece, Health Canada  
D. Wolfish, Health Canada