



**Canadian  
Manufacturers &  
Exporters**

**Manufacturiers et  
Exportateurs du  
Canada**

1 Nicholas Street, Suite 1500/1 rue Nicholas, bureau 1500  
Ottawa ON K1N 7B7  
**Tel/Tél:** 613-238-8888  
**Fax/Télé:** 613-563-9218  
[www.cme-mec.ca](http://www.cme-mec.ca)

June 17, 2009

**Submitted via Federal Portal Rulemaking at <http://www.regulations.gov>**

Marguerite Pridgen  
Office of Federal Financial Management  
Office of Management and Budget  
Room 6025  
New Executive Office Building  
Washington, D.C. 20503

**Re: Recovery Act Guidance**

**Requirements for Implementing Sections 1512, 1605 and 1606 of the American Recovery  
of the American Recovery and Reinvestment Act of 2009 for Financial Assistance  
Awards**

Dear Ms. Pridgen,

Canadian Manufacturers & Exporters (CME) is Canada's leading trade and industry association and the voice of manufacturing and global business in Canada. The association represents more than 10,000 companies in Canada, many of which have extensive operations in the United States. Over 85% of CME's members and their US entities are small and medium-sized enterprises engaged in manufacturing, global business and service-related industries. CME's membership network accounts for an estimated 82% of total manufacturing production and 90% of Canada's exports.

In this letter, I am joined by the following Canadian industry partners,

- Agricultural Manufacturers of Canada (AMC)
- Association of Equipment Manufacturers (AEM)
- Automotive Parts Manufacturers' Association (APMA)
- Canadian Association of Importers and Exporters (I.E. Canada)
- Canada's Chemical Producers Association (CCPA)
- Canadian Fluid Power Association (CFPA)
- Canadian Foundry Association (CFA)
- Canadian Institute of Steel Construction (CISC)
- Canadian Tooling and Machining Association (CTMA)
- Canadian Transportation Equipment Association (CTEA)
- Cement Association of Canada (CAC)
- Electro-Federation Canada (EFC)
- Food & Consumer Products of Canada (FCPC)
- Metals Service Center Institute (MSCI)
- Railway Association of Canada (RAC)
- Trillium Medical Technology Association (TMTA)

CME and our partners appreciate the opportunity to provide comments on this interim rule implementing the “Buy American” requirements of the American Recovery and Reinvestment Act (ARRA).

The United States and Canada benefit enormously from being in the world’s largest trading relationship – one that is distinguished by not only its sheer volume but its immediacy and integrative nature. Long gone are the days when our two countries shipped finished products to each others’ retail shelves. Today, over one third of our bilateral shipments consist of intra-firm component parts and another one third of intra-industry manufacturing supplies. Canada and the United States share a single market and an integrated industrial economy. Over 7 million US jobs depend on this vibrant economic partnership.

For these reasons, CME member companies and their US suppliers and customers have grown alarmed at the ever-increasing confusion surrounding the implementation of the ARRA. This is resulting in unwarranted delays in project start-ups, cancellation of contracts and new orders, delayed shipments, and consequently, the serious erosion of long-standing cross-border supply relationships. Business transactions are also being severed for projects outside ARRA coverage because of the uncertainties that have arisen.

We draw your attention to our following concerns.

The term “manufactured” in parts 176.140 and 176.150 is not sufficiently defined, resulting in differing at best, or conflicting at worse, interpretations from a range of procurement agencies and/or US contractors. More importantly, the term “substantial transformation” as provided in the interim rule is particularly arcane in an economic environment such as ours where today a component part can cross the border several times as the “finished” product is assembled at its final stage.

Ours is a North American economy. Our two countries have enjoyed de facto open and transparent access to each other’s municipal procurement markets for many years. For example, US commercial interests now hold a dominant share of Canada’s waste and waste water municipal infrastructure projects, a sector representing up to \$10 billion in total bilateral trade, with US exports to Canada increasing over the last few years.

The unintended consequences of the Buy American provisions contained in the ARRA present adverse consequences that companies can ill afford in these times of economic turmoil. It should not go unnoticed that the interim guidelines have directly harmed US suppliers of Canadian manufacturers when these latter companies are told they cannot participate in an ARRA-funded projects and therefore have canceled contracts for materials and components from US-based suppliers. We are very concerned that a retaliatory backlash in Canada and other countries could inflict serious harm to American and Canadian manufacturers alike.

Earlier this month, the Federation of Canadian Municipalities responded forcefully to the ARRA with a national resolution to allow imported products in Canadian municipal works only from those countries who offer reciprocal access for Canadian firms. This is a noteworthy development. We now witness the appearance of domestic procurement requirements in Australia and China. If Canada and the United States, the world’s two largest trading partners, cannot avoid imposing restrictions on our bilateral trade, then it is difficult to see how the global economy can avoid falling into a vicious circle of protectionism. This is hardly the intent of Congress.

For these reasons, CME would ask that the Administration not impose Buy American requirements on sub-national procurement contracts, or on grants and other financial assistance awards and cooperative arrangements with private entities funded by the ARRA.

The statutory language of the ARRA provides OMB with the regulatory authority to waive Section 1605 when it is determined that applying Buy American constraints would be inconsistent with the public interest. Clearly, the loss of US jobs and the disruption of a highly competitive manufacturing base in North America are not in the public interest, either of

Canada or of the United States. We urge you to use this waiver in exempting state and other sub-national entities from Buy American provisions attached to ARRA funding.

CME is committed to open and reciprocal access to procurement markets in both Canada and the United States and will partner with federal governments towards that end. We believe that there is a significant opportunity to improve upon existing trade agreements and have been encouraged by the willingness of the Canadian and Provincial Governments to propose the negotiation of a more open procurement agreement between our two countries covering federal, state/provincial, and local authorities.

American jobs are being lost by Buy American as Canadian companies see business in the United States disappear. More jobs will be lost if our two countries do not act quickly to keep our procurement markets open and enhance new business opportunities in these troubling times.

Sincerely,



Jayson Myers  
President and CEO



Jerry Engel  
President  
Agricultural Manufacturers of Canada (AMC)



T. Howard Mains  
Canadian Public Policy Advisor  
Association of Equipment Manufacturers (AEM)



Gerry Fedchun  
President  
Automotive Parts Manufacturers' Association (APMA)



Mary Anderson  
Canadian Association of Importers and Exporters (CAIE)



Richard Paton  
President and Chief Executive Officer  
Canadian Chemical Producers' Association (CCPA)



John Bachmann  
Chairman  
Canadian Fluid Power Association (CFPA)



Judith Arbour  
Executive Director  
Canadian Foundry Association (CFA)



Horst Schmidt  
President  
Canadian Tooling & Machining Association (CTMA)



Don Moore  
Executive Director  
Canadian Transportation Equipment Association (CTEA)



Pierre Boucher  
President and Chief Executive Officer  
Cement Association of Canada (CAC)



Milos Jancik  
President and Chief Executive Officer  
Electro-Federation Canada (EFC)



Nancy Croitoru  
President & CEO  
Food & Consumer Products of Canada (FCPC)



Wayne Bassett  
Chairman, Canadian Council  
Metals Service Center Institute (MSCI)



J. Clifford Mackay  
President  
The Railway Association of Canada (RAC)

*(signed)*  
Ed Whalen  
President  
Canadian Institute of Steel Construction (CISC)

*(signed)*  
Christian G. Dubé  
Chairman  
Trillium Medical Technology Association (TMTA)