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Paola Mellow  
Executive Director, Clean Fuel Standard  
Environment and Climate Change Canada  
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Via e-mail: [ec.cfsnec@canada.ca](mailto:ec.cfsnec@canada.ca)

July 10, 2020

**RE: Clean Fuel Standard – Proposed Regulatory Approach**

Dear Ms. Mellow,

We appreciate your ongoing dialogue and engagement, and the opportunity to respond to the regulatory framework outlining the proposed design of Canada's Clean Fuel Standard (CFS).

On behalf of our members, Fertilizer Canada would like to express our utmost concern with the CFS consultation process. Environment and Climate Change Canada (ECCC) has not engaged the previously established Energy-Intensive, Trade-Exposed (EITE) Technical Working Group (TWG) during this consultation period and has not provided industry, or other stakeholders, with adequate time, materials or information to sufficiently comprehend the impacts of or sufficiently comment on the proposed standard.

In addition, Fertilizer Canada would like to address comments made by ECCC implying that hydrogen addition to natural gas will be included as a credit generator within the gaseous stream of the CFS. This assertion continues to be extremely problematic to our industry, amongst others, and we believe the severity of implications deserves specific attention.

**Fertilizer Canada and our members would appreciate the opportunity to discuss these concerns with you and your staff within the next few weeks. We would be happy to arrange a virtual meeting so that our members and government can collaboratively move forward together on the Clean Fuel Standard. There is substantial concern that without appropriate protections, the potential escalation of manufacturing and transportation costs for fuels used by EITE industries will act to erode the global competitiveness of the Canadian fertilizer industry and Canada's potential as a viable investment jurisdiction. Fertilizer Canada recommends that complementary protections be adopted under the CFS to help mitigate these pressures on EITE sectors and maintain Canada's integrity as a candidate for investment.**



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The Canadian fertilizer industry employs over 76,000 workers and contributes nearly \$24 billion to Canada's economy every year. Fertilizer Canada represents the manufacturers, wholesale and retail distributors of nitrogen, phosphate, potash and sulphur fertilizers – supporting farmers, who feed Canadians and ensure global food security by helping the world grow the food it needs. The fertilizer industry supports policy which balances good environmental performance and economic certainty; setting real and achievable targets to reduce greenhouse gas (GHG) emissions while meeting the demands of crop nutrient production and distribution. Fertilizer keeps soils productive, improving both the quantity and quality of food, fuel and fibre crops. It is important to note that Canada's nitrogen and potash producers are a significant contributor to this global supply.

Natural gas plays a critical role in the manufacturing process and the fertilizer industry is a significant consumer. It is the primary input in nitrogen production with 70 to 90 per cent of a facility's input costs typically attributed to natural gas due to its role as a feedstock in ammonia production. It is also used as a fuel to provide the heat required in nitrogen and potash production.

However, the fertilizer industry is also one of the most EITE industries, vulnerable to competitiveness impacts, carbon leakage and reduced investment. The CFS framework, as currently proposed, does not recognize the increased vulnerability of EITE industries.

### **Concerns with the CFS Consultation Process**

#### **Delayed Release of the Life Cycle Analysis (LCA) and Cost Benefit Analysis (CBA):**

During the consultation process, ECCC informed stakeholders that it would not release the LCA until Canada Gazette II. ECCC is asking for industry to comment on numerous aspects of the CFS without providing the necessary information to understand and comment on how these targets and trajectory metrics have been calculated or the specific aspects of fuel life cycles that CFS implementation will target in order for CFS goals to be achieved. Without the LCA model, industry is unable to sufficiently comment on the achievability of the goals of the CFS.

Similarly, the CBA has not been shared with stakeholders during the consultation process, despite a commitment made by ECCC staff to share the CBA at the start of the June consultation sessions. ECCC has confirmed that the CBA of the CFS will be based on other analyses – analyses developed in 2019 and earlier prior to the global pandemic we are now experiencing – related to the standard and that this will be demonstrated as an incremental increase using previous baselines. We also do not have information on how the Carbon Tax CBA was developed and without this CBA, it is nearly impossible to understand if the baseline assumptions are correct when reviewing achievability of the CFS. To make informed, considered and rational



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commentary on the proposed CFS framework and policy elements directed towards EITE industries, Fertilizer Canada and its members need to understand the projected cost impacts for regulated parties under the CFS. As it currently stands, it is difficult for us to analyze potential impacts or put forward recommendations and contribute fulsomely to the discussion. **Additionally, we strongly recommend that ECCC consider regional CBAs to consider the differences geographically across Canada. For example, land locked provinces or regions have longer routes to Canadian ports, which results in a significant carbon tax charge and additional expenses associated with the CFS requirements. These differences, at a provincial or sub-provincial level, need to be recognized within the standard to ensure consistency across the country.**

**Constrained Time Period:** For the Liquids Stream, ECCC has chosen to hold six three-hour meetings over three weeks, which adds up to 18 hours of consultation in an extremely short period of time, the same period of time where businesses across the country are adapting to the changes forced on Canadians by the COVID-19 pandemic. ECCC first announced the CFS in 2016 and is still finalizing key components of the standard (i.e. carbon Intensity reduction targets), where industry and other stakeholders have been provided only three weeks to review and comment on this intricate standard. Industry is being rushed through long and important consultation sessions, without being given sufficient time to analyze and assess materials prior to meetings. In some instances, materials were not shared before meetings at all or shared within hours of the meeting. This does not provide an opportunity for meaningful consultation. We request that ECCC take the time to discuss the CFS further with the mentioned EITE TWG and that this timeline be extended for future consultations on the novel gaseous and solid fuel streams.

### **Concerns with Hydrogen Packing Comments**

Natural gas is essential to our industry – both as a feedstock and for heating – to produce fertilizers which help keep agricultural soils productive. Canada's world-class nitrogen and potash production facilities are significant contributors to the economy, supporting 76,000 jobs and using Canadian natural gas to produce products which help contribute to global food security and elevate Canada and the world's social prosperity.

However, fertilizer is a global commodity subject to international competitiveness pressures. The fertilizer industry is one of Canada's most EITE industries and is sensitive to extra costs of production not borne by producers in competing jurisdictions around the world.

Fertilizer production is a highly sensitive manufacturing process requiring high quality fuel of continuous and predictable composition and heating value. Altered fuels do not always have the same energy content as traditional fuels and have the potential



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to introduce contaminants into the manufacturing process or negatively impact current and legacy equipment.

Mandated changes to the composition of fuels may have direct impacts on the manufacturing process itself by impacting chemical process performance, combustion characteristics potentially impacting equipment capacity (e.g. dryers, furnaces, boilers, etc.) or other unintended consequences (e.g. underground mine air quality). There is a high risk for financial and production burden due to technical/engineering uncertainties specific to equipment upgrades and/or retrofits. At this time there is no guarantee that manufacturer warranties will be honoured if deviating from the use of approved fuel types, or that there will be sufficient supply and reliable delivery of the changed fuels. Real logistical challenges still exist as sites typically receive all natural gas from Canadian producers through the same pipeline, regardless of whether it is destined to be feedstock or combustion fuel.

Altered process fuels have the potential to introduce contaminants into the manufacturing process whose impacts could include poisoned catalysts, reduced efficiency, increased greenhouse gases (GHGs) or process failure – all of which would be counterintuitive to the original intent of the CFS. Fuel composition changes which act to shorten the expected lifetime of industrial equipment – which for example can be ten years or more for a catalyst or 50 years or more for a boiler with good operating and maintenance practices – represent additional costs borne by Canadian industry and not by global competitors.

New fuel specifications developed by Canadian General Standards Board typically take 3 to 5 years to develop and approve. There is significant concern that the CFS will negatively influence or pressure fuel suppliers in a manner that will impact industrial fuel quality needs as they will be incented to make fuel composition changes prior to the finalization of any fuel quality standards or the CFS regulations for early action credits.

Renewable natural gas (RNG) has similar carbon content as traditional natural gas but is more expensive and a policy which may involve actions such as increasing RNG content will increase the cost of fuel – and by extension, the cost of production – for large natural gas consumers. As an EITE industry competing in a global market, the fertilizer sector is a price taker, and does not have the same ability to pass on costs to consumers as other industries may have. Consequently, these additional costs will be borne by the industry.

Environment and Climate Change Canada has previously estimated that Canada has RNG potential of roughly 1,100 to 2,420 million metric tonnes per year from agricultural, landfill and municipal solid waste sources. However, it is not clear what RNG capacity exists in Canada today. Even with widespread uptake of the practices required to realize these estimated capacities, major new infrastructure would need



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to be approved and constructed for distribution. With the implementation of the CFS shortly on the horizon, there is strong potential for demand to vastly out-pace supply, particularly for natural gas. The uncertainty surrounding RNG availability raises concerns about the implications to a regulated party, and by extension their end-use customers including industry, should regulatory obligations under a CEPA-enabled regulation not be met. Any targets made under the CFS should be achievable and not aspirational.

Emissions impacting air quality are also regulated – such as occupational health and safety requirements for underground mines and federal/provincial regulatory standards for air pollution (e.g. NO<sub>2</sub>). It is currently unknown how modified fuels will impact other regulated emissions and there is concern that changes under the CFS will unintentionally cause violations under other regulatory obligations. Clarification is required on how ECCC will work with their federal counterparts (e.g. Health Canada) and provincial governments to ensure that the CFS is working alongside air quality regulations for the mining sector and safeguard a secure supply of viable fuels for industrial end-users.

**Fertilizer Canada is asking that ECCC acknowledge that natural gas, and its composition, are essential to our industry and address these concerns to protect our global competitiveness. We ask that ECCC work directly with affected industries over the next month to develop specific provisions within the CFS that protect end users from adverse impacts of hydrogen packing.**

**Target & Trajectory:** A 20% increase in the targeted Carbon Intensity reduction from liquid fuel (i.e. 10MT to 12MT) that was announced at the June 19<sup>th</sup> TWG meeting without prior consultation. As target and trajectory directly influence each fuel stream within the CFS and the number of credits required to meet those targets, we believe it is important to allow for stakeholders to review and comment on the achievability of the revised targets and trajectories for all fuel streams. Fertilizer Canada requests that ECCC share the analysis associated with the change in trajectory and targets for industry to better understand any assumptions and how these calculations consider the recent economic situation due to the COVID-19 pandemic.

**Additionality:** During the CFS TWG consultations, additionality was presented with a penetration limit of 5%. ECCC defines the penetration rate as the rate at which a new technology has been adopted by a given sector. With such a low penetration rate at 5%, it can be assumed that only a few facilities within a given sector will be able to apply a certain technology before that technology is considered common practice or “business as usual”. If the penetration rate is above 5%, the technology will be accepted if technological or financial barriers are identified, however, technological or financial barriers have not been defined or described during consultation. Fertilizer Canada acknowledges the need to encourage uptake of new



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and innovative technologies to achieve emission reductions but is concerned that this extremely low penetration rate by sector will unintentionally limit the adoption of innovative low-carbon technologies and drive an increase in costs that will be passed down to EITE industries.

It was previously stated that the CFS “will aim to stimulate investments and innovation in low carbon-intensity fuels while enabling low-cost compliance.” Elements within the proposed CFS, such as additionality, create numerous constraints and uncertainties that will increase costs due to limited compliance opportunities, limit credit generation resulting in failure to meet the CFS targets, and hinder investment opportunities. Fertilizer Canada asks that ECCC develop regulatory options and flexibility within the CFS to mitigate cost impacts. If revisions to the regulatory design cannot be accomplished at this time, we ask that EITE sectors be exempted to allow for a better understanding of the complex cost impacts.

### **Unexpected Economic Conditions**

Fertilizer Canada commends the federal, provincial, and territorial governments for their continued efforts in addressing the COVID-19 pandemic, and for giving assurances to Canadian farmers that work will continue as normal. Fertilizer production supply chains remained open during a critical time of year.

As you know, COVID-19 has disrupted world economies in an unparalleled manner. With respect to the development of the CFS, there is an opportunity for ECCC to foster the Canadian economic, post COVID-19, while still meeting its commitments to the Paris Climate Agreement. By expanding the CFS compliance criteria to allow for low-cost technologies or by broadening the allowed adoption rates of these technologies to generate credits, the Government of Canada can ensure there is a credit market to utilize these generated credits under the CFS.

Beyond these recommendations, Fertilizer Canada suggests that ECCC consider a safeguard mechanism within the CFS design that would respond to potential credit shortages due to the ongoing pandemic and economic crisis.

Reductions in emissions cannot come at the cost of reduced output of food. With roughly 50% of food production attributed to fertilizer and demand continuing to rise, it is critical that Canadian production be maintained to help feed the world’s growing population. The fertilizer sector supports policy which balances good environmental performance and economic certainty; setting real and achievable targets to improve carbon performance, while meeting the demands of crop nutrient production and distribution. We stand ready to work with the Government of Canada as the development of the CFS continues, and welcome any questions with respect to this submission.



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Sincerely,

McKenzie Smith  
Director, Stewardship & Regulatory Affairs

CC The Honourable Seamus O'Regan, Minister of Natural Resources  
The Honourable Marie-Claude Bibeau, Minister of Agriculture and Agri-Food  
The Honourable Jason Nixon, Minister of Environment and Parks  
The Honourable Devin Dreeshen, Minister of Agriculture and Forestry  
The Honourable Dale Nally, Associate Minister of Natural Gas and Electricity  
The Honourable Dustin Duncan, Minister of Environment  
The Honourable David Marit, Minister of Agriculture  
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