



FERTILIZER CANADA

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Via email: ec.tarificationducarbonatecarbonpricing.ec@canada.ca

RE: Canada Gazette, Part I, Volume 155, Number 23: Regulations Amending the Output-Based Pricing System Regulations

Thank you for the opportunity to provide comments on the *Regulations Amending the Output-Based Pricing System Regulations* published in Canada Gazette, Part I on June 5th, 2021. Fertilizer Canada and our member companies recognize the Output-Based Pricing System (OBPS) is an important tool for ensuring high standards for environmental sustainability while preventing carbon leakage and maintaining the competitiveness of Canadian industry. We value the federal government's collaborative approach to revising and amending the OBPS, and we stand ready to work with government to meet our shared economic and environmental goals.

Fertilizer Canada represents manufacturers, wholesale, and retail distributors of nitrogen, phosphate, potash, and sulphur fertilizers. Responsible for 50 per cent of global food production, fertilizer is crucial in meeting the food, fuel, and fibre needs of the growing world population. The Canadian fertilizer industry accounts for 12 per cent of the global fertilizer supply, contributing approximately \$24 billion annually to Canada's economic activity and supporting the employment of over 76,000 individuals throughout the supply chain. However, as an energy-intensive, trade-exposed (EITE) industry, our member companies are highly vulnerable to carbon leakage and investment moving abroad due to inefficient or unparalleled regulatory burden.

Our member companies are committed to achieving high standards for environmental performance while maintaining the competitiveness of our industry. We appreciate that the Government of Canada continues to make efforts to maintain competitiveness and prevent carbon leakage; however, Fertilizer Canada and our member companies are very concerned about some of the proposed amendments to the OBPS.



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Recommendations

Fertilizer Canada would like to take this opportunity to explain our concerns as it relates to the proposed amendments and encourage the Government of Canada take the following actions to ensure the intent of the OBPS, preventing carbon leakage and maintaining the competitiveness of Canadian industry, is protected.

Surplus Credits

Our understanding is that the proposed amendments would allow the Minister to suspend a facility's surplus credits when the province in which that facility is located is removed from Part 2 of Schedule 1 of the Greenhouse Gas Pollution Pricing Act (GGPPA).

The Government of Canada has expressed that the aim of this amendment is to address concerns that, should facilities located in provinces that transition to a provincial carbon pricing system be allowed to retain their existing surplus credits for use in future compliance periods under the federal OBPS, there is a potential for increased supply of surplus credits to decrease the incentive for facilities to reduce greenhouse gas (GHG) emissions. While we recognize the importance of ensuring a functioning credit market that incents GHG reductions, addressing this through the suspension of surplus credits for facilities located in provinces that transition from the federal OBPS to provincial carbon pricing systems is not an appropriate response. As written, the proposed amendment essentially punishes facilities for actions taken by provinces over which facilities have no decision-making power.

Fertilizer Canada and our members feel strongly that giving the Minister the ability to suspend surplus credits in this manner would contradict the original intent of the OBPS and that this is fundamentally unfair for all facilities that have made significant efforts to improve their environmental performance. These efforts have been made based on the regulatory framework as it currently exists. It is reasonable to expect that some adjustments to the OBPS Regulations will be necessary to allow a smooth transition for provinces moving from the federal system to a provincial carbon pricing system; however, a transition from the federal system to a provincial system must not come at the cost of facilities that have earned or purchased surplus credits based on the current framework.

This change would also potentially undermine the OBPS carbon price signal because it would demonstrate that facilities that invest in emissions reduction may not be rewarded for their efforts. Indeed, this proposal may create an incentive for facilities to take no action to reduce emissions, particularly if the province in which they are located has indicated any interest in implementing a provincial carbon pricing program.

Fertilizer Canada asks that the Government of Canada review this proposed amendment to provide a fair treatment of surplus credits in the case of facilities located in provinces that are removed from Part 2 of Schedule 1 of the GGPPA. To fulfill the intent of the OBPS by mitigating carbon leakage and maintaining the competitiveness of Canadian



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industry, specifically EITE industries, these surplus credits should keep value for their term and provincial programs should be permitted to recognize these credits or allow facilities maximum time to trade/sell these credits following removal of a province from Part 2 of Schedule 1 of the Greenhouse Gas Pollution Pricing Act (GGPPA).

Federal and Provincial Alignments

We would also like to address inconsistencies in the information conveyed to industry from the federal and provincial governments on this issue. During ECCC's June 17th webinar, the department indicated that the treatment of surplus credits is an issue entirely in the purview of provincial authorities and their respective provincial carbon pricing systems. However, this was not reflected during a webinar discussing Ontario's proposed Emissions Performance Standards (EPS). When asked if it would be possible to address the transfer of surplus credits from the federal system in the provincial EPS, representatives from Ontario's Ministry of Environment, Conservation, and Parks (MECP) indicated that such a decision would, in fact, require approval from ECCC as it would require a change to the system design. Evidently, there is some confusion between the relevant federal and provincial departments over which jurisdiction has the authority to make decisions about how surplus credits will be treated.

Fertilizer Canada asks that ECCC work collaboratively with Ontario's MECP to ensure that the significant efforts already made by facilities to improve environmental performance are rewarded adequately by allowing the transfer of credits to the Ontario system (or through another mechanism that allows facilities to retain the value of their credits) prior to the implementation of the EPS system in Ontario.

Registration of and Ceasing to be a Covered Facility

Our understanding is that the OBPS amendments will require that a Person responsible for a facility will need to inform the government 30 days prior to his/her transition of responsibility. However, based on information shared in ECCC's June 17th webinar, it is not clear whether the Person responsible refers to the owner of the company or another authorized official. **Fertilizer Canada asks that ECCC clarify whether this amendment refers to the owner of a facility or to any authorized official who is responsible for the facility.**

If the proposed amendment refers to any authorized official who is responsible for the facility, this change will create administrative burden and challenges for facilities, especially since it is intended for a change in personnel (e.g. someone leaving) versus an operational change (e.g. facility sold).



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Fertilizer Canada recommends that the OBPS amendment relating to registration of or ceasing to be a covered facility be altered to 30-day notice when there is an operational change (e.g. facility sold) or notice within a period of at least 30 to 90 business days following the change for a change in personnel (e.g. an organizational or employee change).

Thank you again for the opportunity to provide comments on the proposed amendments to the OBPS Regulations. We greatly appreciate ECCC's efforts to work collaboratively with industry, and Fertilizer Canada stands ready to work with ECCC as the OBPS Regulations evolve. Please do not hesitate to contact us should there be any questions or concerns raised by our comments above.

Sincerely,

McKenzie Smith
Director, Stewardship & Regulatory Affairs

CC: Hon. Jonathan Wilkinson, Minister of Environment and Climate Change Canada
John Moffet, Assistant Deputy Minister of Environment and Climate Change Canada
Tom W. Johnson, Acting Director, Financial Instruments Branch, Ontario Ministry of Environment, Conservation, and Parks