



FERTILIZER CANADA

FERTILISANTS CANADA

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December 21, 2021

Deputy Minister Christine Hogan
200 Sacré-Coeur Blvd
Gatineau, QC
K1A 0H3

Via email: christine.hogan@ec.gc.ca

Dear Deputy Minister Hogan,

Fertilizer Canada is an industry association representing manufacturers, wholesalers, and retail distributors of nitrogen, phosphate, potash, and sulphur fertilizers – the backbone of Canada's agri-food economy.

In recent years, climate priorities and targets in Canada have developed rapidly which has resulted in frequent policy and regulatory changes. Our industry supports evidence-based policy that achieves both economic and environmental sustainability, and we recognize that managing climate-related challenges in the short- and long-term will require policy and regulatory adjustments as priorities and targets develop.

Fertilizer Canada and our member companies greatly appreciate the government's efforts to engage with and consult stakeholders on climate and carbon policies. We know that successfully achieving Canada's climate targets can only be accomplished through collaboration and transparency between government and industry, and we deeply value the opportunities created by Environment and Climate Change Canada (ECCC) and Natural Resources Canada (NRCan) to provide feedback to help inform proposed policy developments. Our industry is one of the most energy-intensive, trade-exposed (EITE) industries in Canada with world-class, sustainable operations resulting from early action to reduce our environmental footprint. However, as an EITE industry, the Canadian fertilizer industry is vulnerable to competitiveness impacts, carbon leakage, and reduced investment. As such, climate policies can have a substantial impact on our industry, along with other EITE sectors.

We would like to express our concern with consultation processes within both departments over the past year. With the array of proposed policy and regulatory changes related to environmental sustainability, there has been an abundance of consultations that Fertilizer Canada and other industry sectors have been engaged in to provide our collective feedback. Since the beginning of 2021, Fertilizer Canada has been engaged in nine consultations related to environmental and carbon policy from both ECCC and NRCan, along with several other consultations on other topics or at the provincial level. Of these, multiple had short timelines for response – for example, ECCC's consultation on the *Regulations Amending the Output-Based Pricing System (OBPS) Regulations*, published in Canada Gazette, Part I on June 5th, had a deadline for comments just 30 days later, on July 5th. An earlier engagement opportunity on OBPS programming provided only two weeks for comments to be submitted. Similarly, NRCan shared a draft strategy for carbon capture, utilization, and storage (CCUS) in late July with a deadline for stakeholder



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feedback by the end of the month, providing just 10 days from the release of the draft strategy to review, coordinate feedback from our membership, and develop a response.

As a national industry association, Fertilizer Canada represents industry members across Canada and, when responding to government consultations, we must ensure that we are accurately representing the full range of our membership. Coordinating the feedback from our members into a cohesive and useful response takes time, and short timelines for submitting consultation responses make it very challenging for us and our members to fully review consultation documents, develop meaningful feedback, and incorporate that feedback into submissions in advance of deadlines. Short timelines are particularly challenging for us on topics like the OBPS, which can deeply impact the competitiveness of our industry, and like CCUS, which is a highly promising technology for reducing emissions in hard-to-abate sectors including fertilizer.

Even now as we head into the end of the year and the holiday season, we are again faced with a short timeline for responding to ECCC's discussion paper on reviewing the Output-Based Pricing System (OBPS), which was published on December 10th with a comment deadline of January 24th, 2022. A 45-day comment period for this issue is already short given the complexity and potential impacts of changes to the OBPS, and this comment period is being held over a holiday season with the result that we will not be able to begin thoroughly consulting with our members until early January. Not only do short timelines make it challenging for us to adequately respond to government consultations, they have also begun to take a toll on the mental health of association and member staff who have been looking forward to a break over the holidays and must instead turn their attention to the OBPS consultation.

In light of the challenges we and other EITE industries have been facing recently, we would like to put forward the recommendations below for ensuring that ECCC's and NRCan's consultation processes account for the needs of both government and industry stakeholders and that adequate opportunities are provided for engaged stakeholders to develop meaningful feedback that is useful to the department. These recommendations align with the Treasury Board of Canada Secretariat's 2007 *Guidelines for Effective Regulatory Consultations*. While that document is specifically aimed at regulatory consultations, we believe that the guidelines set out in the document should apply to all consultation activities across the policy and regulatory development process. **In particular, Fertilizer Canada strongly encourages federal departments to follow the guidelines and checklists for developing realistic timelines (section 4.2.3), internal and interdepartmental coordination (section 4.2.4) and feedback / follow-up (section 4.2.9).**¹

1. **Consistent, transparent, and realistic consultation timelines:** We ask that ECCC and NRCan commit to consistently providing realistic timelines for consultation responses in order to allow us and other sectors to develop wholistic, meaningful feedback to various policy and regulatory proposals. Generally, a minimum of 60 days

¹ "Guidelines for Effective Regulatory Consultations", Treasury Board of Canada Secretariat, 2007, <https://www.tbs-sct.gc.ca/rtrap-parfa/erc-cer/erc-cer-eng.pdf>.



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from publication of consultation materials would provide adequate time for response; however, in some cases additional time could be required based on the complexity or the potential impacts of the issue in question. To ensure that consultation timelines are sufficient, ECCC and NRCan should seek input from industry and any other relevant stakeholders prior to releasing consultation documents on the amount of time required to develop feedback and finalize comment submissions on the given topic. Further, we ask that ECCC and NRCan coordinate within their respective departments, and with other federal departments, on consultation releases and timelines with the aim of minimizing overlap of both content and timelines where possible and ensuring that timelines are sufficient when there are multiple consultations within the same time period. This would allow stakeholders to focus their efforts on fewer consultations at a time, reducing strain on staff resources and facilitating more useful and informative feedback.

Where possible, we also recommend that federal departments coordinate both internally and between departments to minimize any overlaps in the content of consultations. For example, Fertilizer Canada responded to three separate consultations in the first half of 2021 on different aspects of the Output-Based Pricing System (OBPS). While we appreciate all opportunities to engage with government and share our feedback, we believe that in some cases it would be beneficial to consolidate consultations that share the same topic. This would also help reduce the amount of time and effort needed to develop responses, compared to responding to multiple individual consultations.

- 2. Post-consultation reporting:** Our industry puts significant time and effort into developing consultation responses and these consultations frequently contain policies and regulations that could impact our members greatly. To ensure that stakeholder feedback is fully considered and to improve transparency in the consultation process, we ask that government departments consider consistently releasing a “What We Heard” style report containing the stakeholder feedback received through the consultation period and indicating how that feedback was used. This would provide assurance to stakeholders, like ourselves, that our time and effort in responding to consultations is meaningful and that our feedback is taken into consideration. Additionally, this type of post-consultation reporting is highly beneficial for us as an industry association as it allows us to learn about the positions taken by other stakeholders and encourages industry-to-industry co-operation and alignment.

We stand ready to continue working with ECCC, NRCan, and the Government of Canada as climate policies are developed and implemented. Engagement and consultation opportunities are extremely valuable for us, and we believe that the above recommendations can ensure that both government and other stakeholders are benefiting from a meaningful consultation process. We would be pleased to schedule a virtual meeting to further discuss the comments above if desired. Please do not hesitate to contact us with any questions, comments, or concerns.



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Sincerely,

Director, Stewardship & Regulatory Affairs
Fertilizer Canada

