FERTILIZER CANADA
FERTILISANTS CANADA

907 – 350 Sparks, Ottawa ON K1R 7S8
T (613) 230-2600 | F (613) 230-5142

info@fertilizercanada.ca
fertilizercanada.ca | fertilisantscanada.ca

January 24, 2022

Carbon Markets Bureau
Environmental Protection Branch
Environment and Climate Change Canada
351 Saint-Joseph Boulevard
Gatineau, Quebec
K1A 0H3

Via email: tarificationducarbone-carbonpricing@ec.gc.ca

Re: Review of the OBPS Regulations – Consultation Paper

On behalf of our member companies, Fertilizer Canada would like to thank Environment and Climate Change Canada (ECCC) for this opportunity to provide feedback on the "Review of the OBPS Regulations: Consultation Paper" published December 10, 2021. Our industry recognizes the importance of cooperation between government and industry to achieve our shared goals for environmental and economic sustainability. We greatly appreciate ECCC's efforts to engage with industry stakeholders on this crucial topic and look forward to continued dialogue moving forward.

Fertilizer Canada represents manufacturers, wholesale, and retail distributors of nitrogen, phosphate, potash, and sulphur fertilizers. 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. Canadian fertilizer manufacturing facilities are some of the most technologically advanced, energy efficient, and safest facilities in the world. Our industry has world-class, sustainable operations resulting from early action to reduce its environmental footprint. However, as an energy-intensive, trade-exposed (EITE) industry,[1][2] our member companies are highly vulnerable to carbon leakage and investment moving abroad due to inefficient or unparalleled regulatory burden, as already recognized by ECCC in the OBPS Regulations.

Our industry is committed to high standards for environmental sustainability, and we support science-based policy that achieves environmental objectives while also maintaining our industry's global competitiveness. As part of our commitment, we have proactively conducted a Low-Carbon Technology Scan for the Canadian fertilizer industry which explains current manufacturing processes, evaluates new and emerging technologies against their emission reduction potential, commercial scalability, economic viability, and regional considerations. The scan also provides technology and policy recommendations based on this broad evaluation. **Fertilizer Canada asks that ECCC review the key findings of our *Low-Carbon Technology Scan Summary* which explains that, while decarbonization opportunities exist for the Canadian fertilizer industry, there are significant barriers to the implementation of these technologies at our facilities in**

[1] https://www.pembina.org/reports/linking-cap-and-trade.pdf.
[2] https://www.iea.org/reports/ammonia-technology-roadmap, page 29.

FERTILIZER CANADA
FERTILISANTS CANADA

907 – 350 Sparks, Ottawa ON K1R 7S8
T (613) 230-2600 | F (613) 230-5142

info@fertilizercanada.ca
fertilizercanada.ca | fertilisantscanada.ca

Canada, including the need for major investments in time and capital and a need for public infrastructure to facilitate the implementation and use of emissions-reducing technologies.

Fertilizer Canada, and its member companies, are deeply concerned that the original intent of the OBPS regulation has been lost and we expect that these proposed regulatory amendments will significantly impact the global competitiveness of our industry in Canada. On behalf of our member companies, Fertilizer Canada has summarized our key concerns and recommendations below:

1. Risk Classifications for Energy-Intensive, Trade-Exposed (EITE) Industries

The consultation paper indicates that the updated EITE competitiveness analysis found *"that most sectors remain at low or medium risk in 2030, apart from aluminum, cement, and iron and steel,"*. Given previous static modelling and scientific literature findings,[3] our member companies are extremely concerned that aggregated, dynamic economic modelling does not recognize the fertilizer industry as high risk for carbon leakage and adverse competitiveness impacts. Given that this analysis, which previously resulted in emission reduction factors for all fertilizer products with anhydrous ammonia production receiving a 95% emission reduction factor based on its EITE risk, was conducted just a few years ago, we do not believe that the assessment could have fundamentally changed. The Canadian fertilizer industry is a highly export driven industry and is a world leader in sustainable fertilizer manufacturing with Canadian potash producing 50 per cent fewer emissions (and exporting 95% of its production) in comparison to its global competitors[4] and Canadian nitrogen facilities ranking first, as the most feed and-fuel energy-efficient plants, in the world.[5] Notably, California's cap-and-trade system, which ECCC is seeking to align with, identified nitrogen fertilizers as having *"high carbon leakage risk, high emissions intensity and a significant share of industrial process emissions,".*[6]

The Canadian fertilizer industry is a mature EITE industry that has already implemented the "low-hanging fruit" measures to reduce our environmental footprint. Further emission reductions will require major investments of time and capital to develop and implement emerging low-carbon technologies, such as carbon capture, utilization, and storage (CCUS) or, in the long-term, electrolysis to produce clean hydrogen, and small modular reactors for process heat requirements. Implementation of these low-carbon technologies at our facilities depends upon access to public infrastructure (CCUS storage locations and pipelines, net-zero electricity, etc.,) which does not currently exist in Canada and will take years, if not decades, to develop. Dynamic modelling that assumes industrial emission changes will be achieved with future government investments in public infrastructure unrealistically asks our member companies to implement these low-carbon technologies at our facilities without the enabling public infrastructure, realistic technological feasibility, or economical cost projections.

---

[3] https://www.pembina.org/reports/linking-cap-and-trade.pdf.

[4] Global Carbon Footprint Benchmarking for Potash

[5] https://publications.gc.ca/collections/collection_2009/nrcan/M144-155-2007E.pdf.

[6] https://ww2.arb.ca.gov/sites/default/files/2021-02/ct_reg_unofficial.pdf.

FERTILIZER CANADA
FERTILISANTS CANADA

907 – 350 Sparks, Ottawa ON K1R 7S8
T (613) 230-2600 | F (613) 230-5142

info@fertilizercanada.ca
fertilizercanada.ca | fertilisantscanada.ca

Furthermore, the division of EITE sectors by risk level is particularly concerning as "low-to-medium risk" EITE industries will now face an OBS annual tightening rate of two per cent, in comparison to one per cent for "high-risk" EITE industries. An increase in carbon price combined with the proposed annual OBS tightening rate of two per cent will severely impact the competitiveness of the Canadian fertilizer industry and its ability to attract domestic, low-carbon investments.

The Government of Canada designed the OBPS to "*ensure there is a price incentive for industrial emitters to lower their greenhouse gases and spur innovation while maintaining competitiveness and protecting against "carbon leakage",".* However, when combined with an aggressive increase in the price of carbon to $170 tonne of CO_2e by 2030, the Government of Canada is jeopardizing industrial competitiveness and risking carbon leakage by posing an additional, annual Output-Based Standard (OBS) tightening rates for all EITE industries. As the OBS was only implemented in 2019 and the current increasing price signal beyond 2022 has yet to start taking effect, the current OBS has not had sufficient time to demonstrate the effect of the price signal for curbing emissions reductions. To fundamentally change the OBS at this time predisposes that the existing program is failing. This implication places a significant challenge to the notion of regulatory certainty promoted in the Consultation Paper.

Fertilizer Canada does not support an annual OBS tightening rate for EITE industries and strongly recommends that ECCC model nitrogen and potash manufacturing separate from other industries to accurately account for the unique competitiveness risks facing these activities. On behalf of our member companies, Fertilizer asks that the Chemical Markets Bureau at ECCC meet with our industry in the near term to revise, in detail, the updated dynamic modelling for our industry specifically.

While other carbon policies, including Border Carbon Adjustments (BCAs), could potentially provide some protection against carbon leakage in the future, these polices are currently under development and will not be in place in Canada before the proposed OBPS amendments are implemented. The state of such policies is similar to the development of the new clean technologies industry which is expected to implement before they are commercially or economically available.

The Government of Canada has confirmed that the development of a BCA is not on the same trajectory as the OBPS regulatory developments and has just recently launched consultation on this policy. Additionally, the development of Canadian BCAs should be done in alignment with other global trading jurisdiction which will likely take years to implement effectively, whereas the proposed OBS changes would take effect in 2023. **Although we understand some assumptions must be made for modelling purposing, Fertilizer Canada is very concerned that ECCC is assuming that long-term global carbon ambitions or future BCA policies will decrease carbon leakage risks over time to meet the intent of the current OBPS. We caution the Government of Canada that setting signals based on long-term, future assumptions further discourages low-carbon investments at our facilities in Canada today.**

FERTILIZER CANADA
FERTILISANTS CANADA

907 – 350 Sparks, Ottawa ON K1R 7S8
T (613) 230-2600 | F (613) 230-5142

info@fertilizercanada.ca
fertilizercanada.ca | fertilisantscanada.ca

2. Industrial Process (IP) Emissions

Fertilizer Canada has and continues to voice its concerns with the inclusion of industrial process (IP) emissions from fertilizer manufacturing within the OBPS regulation. Not only are IP emission reductions fixed by chemistry, but our member companies already capture IP emissions from the ammonia plants which are directly used as a feedstock to produce Urea and Urea Ammonium Nitrate (UAN), two of the most globally traded agricultural fertilizers. Furthermore, a reduction and tightening rate on facilities that use IP emissions as a feedstock, is a direct tax on Urea and UAN production, which goes against the fundamental reason for establishing an OBS for granular and liquor urea. A reduction in IP emissions would result in a reduction of Urea and UAN production, which will not only lead to carbon leakage and impact the global competitiveness of our industry in Canada but will also negatively impact our farmer customers who rely on these important agricultural products. It is extremely concerning to our member companies the IP emissions we utilize as a feedstock are not only included within the OBPS regulation but that these emissions could be subject to an annual tightening rate of two per cent per year.

To protect our global competitiveness and the production of urea-based fertilizers in Canada, we ask that ECCC remove its application of an annual tightening rate on IP emissions within the OBPS regulation. We are extremely concerned that the application of an annual tightening rate on IP emissions will discourage production of Urea and UAN in Canada and will unintentionally encourage carbon leakage as other jurisdictions increase production to meet global demands. Additionally, we ask that the Government of Canada offer as much flexibility as possible to provincial governments on how they manage IP emissions and provide our member companies who are regulated under the OBPS with the same flexibilities.

Our member companies are committed to environmental sustainability and the health and safety of their employees and community. Process shutdowns to conduct maintenance are precautionary measures our member companies regularly conduct to meet air quality and other health and safety standards. Application of an annual tightening rate on maintenance venting and flaring emissions could further increase costs at our facilities due to the high carbon intensity associated with necessary start up activities. **Application of an annual tightening rate on emissions not associated with production has the potential to significantly increase costs at our facilities which would further impact our global competitiveness and risk carbon leakage. We ask that ECCC provide an exemption or as much flexibility as possible for start-up venting and flaring emissions resulting from health and safety maintenance activities.**

3. Supply and demand of credits

We noted that part of the motivation for the proposed annual tightening rate is to reduce the potential to have enough credits in the market that the price of credits falls, and the price signal is weakened. Although this has been in a concern in other jurisdictions with matured and successful

FERTILIZER CANADA
FERTILISANTS CANADA

907 – 350 Sparks, Ottawa ON K1R 7S8
T (613) 230-2600 | F (613) 230-5142

info@fertilizercanada.ca
fertilizercanada.ca | fertilisantscanada.ca

carbon credit markets, we do not see this as a concern for Canada in the near term within this OBPS review period. Additionally, the consultation paper references other jurisdictions with tightening stringency rates but fails to acknowledge that those jurisdictions have had robust credit trading and offset systems in place for several years before stringency levels were adjusted.

The credit market in Canada is not yet at the point where there is an issue with an excess of credits impacting the price signal. We are concerned that the aggressive nature of compounding signals (i.e. an increase in carbon price, credit supply, etc) will lead to increased carbon leakage and adversely disadvantage Canadian producers which the OBPS was designed to protect. Given the lack of existing infrastructure in Canada (i.e. net-zero electricity, CCUS storage locations and pipelines, etc.,) and the long-term commercial timelines associated with low-carbon technologies for our industry, the abrupt and aggressive nature of these compounding signals will further discourage investment in Canada.

Fertilizer Canada recommends that ECCC rely on the measures already in place (e.g., expiry dates on credits) to manage credit supply and demand. Additionally, we are concerned with how other policy tools, such as the proposed CCUS Investment Tax Credit or BCAs, could be impacted by any attempt to prematurely reduce the potential to have enough credits in the market. We strongly encourage the Government of Canada to account for the currently available suite of climate and carbon policy measures being considered throughout the review of the OBPS Regulations.

We also encourage the Government of Canada put further efforts into developing carbon offset protocols, supporting provincial and voluntary protocol developments, and establishing carbon offset markets (both cross-provincially across Canada and within international carbon markets). Fertilizer Canada asks that ECCC prioritize the development of a 4R Climate Smart protocol within the federal OBPS system to support Canadian growers as they take action to reduce their nitrous oxide emissions on farm according to the 4R Nutrient Stewardship Framework.

4. Revenue Recycling & Federal Funding Opportunities

The best opportunity for reducing emissions by 2030 for our industry is with existing and quickly emerging technologies, such as CCUS; however, investing in commercial scale upgrades requires large capital investments. Fertilizer Canada believes that funds generated from the OBPS should be used to address these challenges and competitive cost pressures faced by OBPS covered facilities. Access to funds should be limited to only the direct and indirect benefit of covered facilities and sectors. Further to this, it is our view that funds should be held for the company, or at very least the sector, which contributed them to provide the much-needed investment certainty and financial support to secure additional low-carbon investments in Canada.

We note that the consultation paper justifies an annual OBS tightening rate by pointing to available funding through other industrial decarbonization programs, such as the Net Zero Accelerator and Strategic Investment Fund. The structure of these, and other similar funds, does not provide our industry with the assumed opportunity to access funds for low-carbon technology projects at our facilities. The programs are often heavily oversubscribed, meaning projects with good emission

FERTILIZER CANADA
FERTILISANTS CANADA

907 – 350 Sparks, Ottawa ON K1R 7S8
T (613) 230-2600 | F (613) 230-5142

info@fertilizercanada.ca
fertilizercanada.ca | fertilisantscanada.ca

reduction potential cannot access funding. Furthermore, funds within these programs primarily go to the benefit of technology companies, as our industry does not have shovel-ready projects and future investment decisions are significantly longer (often 10 years or more) than the current application periods.

Fertilizer Canada recommends that the OBPS programming include sector- or facility-specific revenue recycling to return all, or a portion of the revenue collected, back to regulated industries to support the adoption of low-carbon technologies, including innovative research and development projects, in Canada. Additionally, we ask that the Government of Canada modify other industrial decarbonization funding programs to better align with the investment needs and timelines for our industry.

5. Output-Based Standard (OBS) for Granular Urea

The consultation paper indicated that ECCC is considering the development of an OBS for granular urea, in addition to the existing OBS for urea liquor. Fertilizer Canada would like to thank the Government of Canada for its prioritization of the development of separate OBSs for granular urea and urea liquor. We recently worked with the Alberta Government under the Technology Innovation and Emissions Reduction (TIER) Regulation to develop delineated standards for these unique products, and we appreciate that ECCC is exploring this at the federal level. **Fertilizer Canada would like to thank ECCC for establishing a Granular Urea Working Group and is pleased to provide or assist with the collection of any necessary information or data from our industry for the development of an OBS for granular urea.**

6. Material Discrepancy for Production

The consultation paper indicates that ECCC plans on lowering the materiality threshold for production from 5% to 0.1%. In many cases, our facilities utilize internal site meters or mass balance to determine production volume. Although this reduced threshold may be achievable in some limited cases (i.e., widgets), a 0.1% accuracy is lower than some of our current metering systems and poses considerable challenges for bulk commodities. Fertilizer Canada is concerned that the timeline for implementation of this OBPS amendment provides no time for companies to install equipment to meet the proposed threshold limit.

Fertilizer Canada recommends that the material discrepancy threshold for bulk production remain at 5%. For some members, installation of new equipment and associated maintenance outages are required, therefore, we respectfully ask ECCC to provide our industry with sufficient time (4-5 years) to allow for alignment to any proposed policy changes.

Concluding Remarks

Thank you again for this opportunity to submit recommendations to help inform the review of the OBPS regulations. We greatly appreciate your continued stakeholder engagement and thank you for reducing administrative burden through the harmonization of the associated reporting (i.e.

FERTILIZER CANADA
FERTILISANTS CANADA

907 – 350 Sparks, Ottawa ON K1R 7S8
T (613) 230-2600 | F (613) 230-5142

info@fertilizercanada.ca
fertilizercanada.ca | fertilisantscanada.ca

GHGRP), however, ask that alignment with provincial reporting requirements be reviewed to further reduce administrative burden or duplicity.

While the consultation paper raises some significant concerns for our member companies, we believe that the recommendations described above will help alleviate some of the potential impacts of the proposed changes. In addition, our main concern is the challenge with implementing these significant regulatory changes during the first OBPS review and further encourage the Government of Canada to reconsider a future review period to potentially implement these proposed changes.

Fertilizer Canada stands ready to work with ECCC as the OBPS Regulations are reviewed and welcomes review of previous consultation responses from Fertilizer Canada as many of our recommendations remain a concern. We would be pleased to schedule a virtual meeting to discuss our concerns and recommendations in more detail. Please do not hesitate to contact us with any questions on this submission.

Sincerely,

McKenzie Smith
Director, Stewardship & Regulatory Affairs

CC: John Moffet, Assistant Deputy Minister, Environment and Climate Change Canada

Katherine Teeple, Director, Industrial GHG Emissions Management, Environment and Climate Change Canada

John Hannaford, Deputy Minister, Natural Resources Canada

Bev Yee, Deputy Minister, Ministry of Environment and Parks, Alberta

Laura Gray-Steinhauer, Director, TIER Policy and Economics, Ministry of Environment and Parks, Alberta

David Brock, Assistant Deputy Minister, Climate Change and Adaptation Division, Ministry of Environment, Saskatchewan

Kyle Worth, Director, Emissions Management and Compliance, Ministry of Environment, Saskatchewan

Jan Forster, Deputy Minister, Conservation and Climate, Manitoba

Serge Imbrogno, Deputy Minister, Ministry of Environment, Conservation and Parks, Ontario

Tom W Johnson, Acting Director, Financial Instruments Branch, Ministry of Environment, Conservation and Parks, Ontario